Purpose

The Centers for Medicare and Medicaid Services (CMS) published its final rule related to Home and Community Based Services (HCBS) for Medicaid funded long-term services and supports provided in residential and non-residential home and community based settings. The final rule took effect March 17, 2014. States are required to submit transition plans to CMS within a year of the effective date indicating how they intend to comply with the new requirement within a reasonable time period. If states amend or renew any of their currently operating waivers or state plan amendments prior to the effective date, that action serves as a trigger for the state to submit a transition plan for all its waivers under 1915(c), as well as any state plan amendments under 1915(i) or 1915(k) within 120 days of the amendment/renewal submission.

Background

This document describes the Statewide Transition Plan (SWTP) of the Oklahoma Health Care Authority (OHCA), the single State Medicaid Agency, as required by the CMS final regulation related to new federal requirements for home and community based (HCBS) settings. This SWTP includes the state's assessment of its regulations, standards, policies, licensing requirements, and other provider requirements to ensure settings comply with the new federal requirements. Additionally, the transition plan will describe action the state proposes to assure full and on-going compliance with the HCBS settings requirements.

Overview

Oklahoma administers/operates six 1915 (c) waivers. There are approximately 26,106 individuals served in the State of Oklahoma through one of these 1915 (c) waivers. Oklahoma does not currently offer services through the state plan under 1915 (i) or 1915 (k) authority. Oklahoma operates two waiver programs with a nursing facility level of care designation and four waiver programs with an Intermediate Care Facility/Intellectual Disability (ICF/ID) level of care designation. Across the six waiver programs, there are eight distinct settings utilized among Home and Community Based Waiver members, that does not include the member owned or family owned home. This document summarizes the State's preliminary assessment activities and its proposed strategy for continuous monitoring and remediation of HCBS settings for both the aged and physically disabled (NFLOC) waivers and the developmental disabilities waivers (ICF/ID LOC).

Section A: Systemic Review

I. Review Methodology

This section details how the State approached the systemic review for the Statewide Transition Plan. The State utilized a three-pronged approach for the review. The review began with the State lead compiling and reviewing all related regulations, contracts, policies and procedures, and service definitions. It was the responsibility of the State lead, the State Medicaid agency, to compile this information, assess it, and define its consistency to the HCBS Final Rule. The second prong of the process was a review by the State leads' partner agencies. These partner agencies included the Developmental Disabilities of the Oklahoma Department of Human and Services (DHS) and the Aging Services of DHS. These partner agencies had the responsibility of reviewing the assessed regulation, policies and procedures, and service definitions. Partner Agencies were responsible for adding additional regulations and policies that were not previously identified. Partner Agencies made an assessment of each of the regulations and policies consistency/compliance with the HCBS final rule. Partner Agencies also proposed remediation and action plans for all of those regulations and policies that required such. The third prong of the systemic review process involved stakeholder groups. Stakeholders represented both the ICF/ID level of care waivers as well as the NFLOC waivers. The systemic assessment was sent to all stakeholder groups affiliated with the waivers. The stakeholder groups were charged with reviewing the systemic grid and providing feedback on the State leads and partner agencies determination of applicable regulations and policies and their consistency with the HCBS final rule. All feedback, comments, and suggestions were reviewed and incorporated as appropriate in the Statewide Transition Plan and systemic assessment grids.

II. Compliance Analysis

Within the three-prong review process each group (State Lead, Partner Agencies, and Stakeholders) made an analysis of whether the identified relevant policies and regulations were consistent with the elements outlined the HCBS Final Rule. The analysis of the policies and regulations resulted in a determination of fully compliant, partially compliant, silent, or non-compliant with the elements of the HCBS Final Rule. The outcome was determined through an evaluation of the regulations and/or policies consistency and congruence with elements of the HCBS final rule. Regulation and policy language precisely consistent and congruent with the elements was determined to be fully compliant. Policies and/or regulations consistent with only part of the elements of the HCBS Final Rule were determined to be partially compliant. Inconsistent language or language opposing the elements of the HCBS final rule was determined to be non-compliant. Absent language and absent intent of language used was determined to be silent. DHS DDS adopted an overarching general provision administrative rule in order to ensure clarity, consistency, and compliance across all waiver program settings. The overarching general provision administrative rule precisely follows the elements detailed in the HCBS Final Rule. As a result, it was determined that all ICF/ID LOC settings are compliant with the HCBS Final Rule. The systemic grid also includes supporting regulation and policies that enhance the consistency of the regulations and policies that address the elements in the HCBS Final Rule. Aging Services plans to adopt a similar overarching general provision administrative rule that

will assist in its settings becoming more compliant with the HCBS Final Rule. Much of the regulations and policy pertaining to the NFLOC settings specifically Adult Day Health setting, remained silent; therefore the adoption of an overarching administrative rule would more directly signify that settings must comply with the standards of the HCBS Final Rule.

III. Remediation Activities

NF LOC Waivers

Many of the current policy and regulations pertaining to settings in the NF LOC waivers were determined to remain silent or be partially compliant with the elements of the HCBS Final Rule. It has been determined that remediation is necessary in order to allow the settings to become compliant with the HCBS Final Rule. Remediation activities will consist of the development and addition of an overarching policy that will precisely follow language of the HCBS Final Rule that settings will have to abide by. The development of this standard for NF LOC waiver settings will go through the States permanent rule promulgation process. It is projected the proposed additional standards for NF LOC waiver settings will be effective 9/1/2017. A draft copy of the updated policy and language can be found in Appendix C.

ICF/ID LOC

The DHS DDS developed an overarching general provision standard that was made effective 9/1/2015. This standard pertains to and must be followed by all settings in the ICF/ID waivers. This overarching general provision strictly follows the language in the HCBS Final Rule. There are minimal instances where remediation is needed, specifically where the state policy and the waiver language conflict such as the case with the policy surrounding restraints. DHS has supporting policy that will be updated as a means of enhancing compliance and having additional policy to directly correspond with the HCBS Final Rule. Proposed changes to specific language can be found in Appendix D.

IV. Alignment of Review

The State of Oklahoma, pursuant to House Bill 1566 which passed the Oklahoma Legislature and was signed by Governor Mary Fallin in April 2015, is in the process of issuing a Request for Proposal (RFP). The RFP is for a care coordination model for the Aged, Blind, and Disabled populations (ABD). Throughout the process of the RFP development OHCA has worked with the State's contracted consultant group to verify all related managed care rules and how the proposed new service delivery model will ensure compliance with the HCBS Final Rule. The intent of the Legislation is to provide better access to care, improve quality and health outcomes, and control spending costs for the ABD populations. The State is working to gather all relevant information from federal statutes including the HCBS Final Rule, the newly proposed managed care rules, State policy, and stakeholder engagement.

Section B: NF LOC Waivers

Introduction

Oklahoma operates two 1915(c) waivers with a nursing facility level of care (NFLOC) designation serving approximately 21,000 individuals per month in community settings. The State conducted a review of all of its applicable State statutes, administrative rules, approved waivers, provider requirements, and service specifications pertaining to the HCBS settings. The results of the State's systemic review are located in Appendix A.

The following are the approved NFLOC Waiver Programs.

Medically Fragile – Serves individuals 19 years of age and older who meet hospital and/or skilled nursing level of care. The purpose of the waiver is to provide assistance for families who require long-term supports and services to maintain the medically fragile member in the family home while meeting their unique medical needs. Daily operation of this waiver is performed by the Oklahoma Health Care Authority.

ADvantage – Serves frail elderly individuals age 65 or older and adults age 21 to 64 with physical disabilities or other disabilities, without cognitive impairment that would otherwise require placement in a nursing facility. Daily operation of this waiver is the responsibility of the Department of Human Services Aging Services (DHS-AS). The Oklahoma Health Care Authority retains administrative oversite of the waiver.

I. Assessment Methodology & Continued Monitoring

The DHS – Aging Services, Medicaid Services Unit, (MSU), Quality Assurance/Improvement (QAI) department Provider Audit team has begun formally conducting annual on-site provider agency reviews in all NFLOC settings. Settings include Assisted Living (AL), and Adult Day Health (ADH) Onsite review were conducted in SFY17 (July 1, 2016 – June 30, 2017) and will continue annually after the transition plan period. The Provider Audit team has been conducting annual on-site reviews for Home Care (HC) and Case Management (CM) providers since 2000, and will continue these reviews, in accordance to the ADvantage Waiver performance measure requirements. Reviews are completed by DHS-AS MSU-QAI for providers and HCB Settings annually, extending beyond the transition period (March 15, 2019). In accordance to the ADvantag*e* Waiver, Raosoft is used to obtain a representative sample of case records of Members receiving services in each provider type reviewed, including ADH and/or Members who reside in an AL facility. Included in each review is a survey of Member perception. Member Perception contacts are made with Members who were randomly selected for provider review in their ADH/AL setting, in the Member's home, or via telephone. ADvantage does not currently have a Provider utilizing more than one setting type. If a provider had multiple types of settings, each setting would be reviewed separately. Providers with multiple locations have separate reviews for each location.

In SFY 2015, the State conducted baseline provider self-assessment surveys. By the end of SFY16, DHS-AS completed follow-up onsite reviews of Assisted Living facilities. In SFY16, DHS-AS also worked with DHS, Developmental Disabilities Services (DDS), to complete Adult Day Site Visit Reports at the Adult Day Centers. During these preliminary follow- up reviews, DHS-AS found 71% of the seven AL providers reviewed were in full compliance while the other two AL settings and all 29 ADH settings were not in compliance but could be with modifications. Examples of reasons a setting did not comply include a lack of community outing opportunities; unclear opportunities to provide change in Member needs and preferences; secure places for personal belongings; removal of gates, locked doors or other barriers to allow access to areas to the same degree of those not receiving HCBS; providing Members with information regarding how to update or change services and/or providers. Providers received feedback directly regarding agency specific findings. In addition, a statewide overview of common findings and pertinent training reminders was provided at the fall 2016 Regional Provider Trainings to assure 100% compliance.

DHS-AS Medicaid Services Unit has developed Adult Day Health (ADH) and Assisted Living (AL) Consumer-Focused Quality Care Review (C-FQCR) tools using exploratory questions as a guide for the HCB Settings section of the C-FQCR tool. A C-FQCR tool was used to review Assisted Living provider setting in SFY16, while an Adult Day Site Visit Report was used for ADH provider settings in SFY16. Updates to the Assisted Living C-FQCR tool have been made and an Adult Day Health C-FQCR tool was developed for use in SFY17 and subsequent review years. The C-FQCR tools are based on the ADvantage Program contractual documents, Oklahoma Administrative Code (OAC), Oklahoma statutes, and HCB Setting Final Rules. The tools are designed to measure provider compliance with defined standards and adherence to the waiver requirements, including Member choice of services and provider, training, compliance with delivery of services as authorized. As a measure to further validate findings, the tool will also survey the Member's perception of service delivery performance and support to integrate into the greater community. Each SFY17 review will include a remediation plan of correction that the agency completes, as well as progress reports if there were any non-compliance issues with any of the requirements. The Provider Review team is responsible for monitoring and tracking the provider's progress in complying with the performance measures, HCB settings requirements, and any necessary remediation. MSU-QAI staff has received trainings provided by CMS through various webinars. Annual and ongoing review staff training will be provided in the usage of the C-FQCR tool, user instructive material, policy, and CMS rules. Seasoned reviewers participate at least yearly in interrater reliability demonstration training; new reviewers are assessed more frequently at milestones in orientation training through interrater reliability activities with various reviewers.

Compliance Determination

During SFY 16, HCB Setting compliance was determined using a Site Visit Report for Adult Day Health Centers and a C-FQCR tool for Assisted Living Centers. In order to be

considered Fully-Complaint, the HCB Settings score had to be 100% on the respective tool. HCB Settings scores below 100% were looked at to see if they could comply with modifications. Non-compliance was defined as an agency that could not comply with modifications. All ADvantage agencies scoring below 100% were found to be able to comply with minor modifications as discussed above.

Individual, Private Home

The Department of Human Services Social Worker and Long Term Care (LTC) Nurse complete both financial and medical criteria, respectively, to evaluate eligibility for the ADvantage Program. A Uniform Comprehensive Assessment (UCAT Part III) is completed, in the home of each applicant by the LTC Nurse initially and annually by the individual's Case Manager. Using the UCAT III as a tool in the home to evaluate health and safety, the LTC Nurse and Case Manager obtain information relevant in the assessment of compliance with Home and Community Based (HCB) settings requirements including setting choice and access to the greater community including a section that asks "if you could not continue to live in your present location, do you have any ideas about where you would live?" The tool is designed to ask probing questions regarding Activities of Daily Living and Instrumental Activities of Daily Living to aid in the development of the Member-driven Person-Centered Service Plan. During this initial assessment, the Member chooses their desired providers and offers input to the services in their Person-Centered Service Plan. The LTC Nurse and Case Manager use the UCAT Assessor Manual to complete the form. Additionally, Case Management Training with multiple tests throughout is a requirement for ADvantage Case Management certification. A full day is devoted to the UCAT which requires the assessor to review the Member's physical and mental health, functional abilities, social supports, and physical environment documenting safety and accessibility concerns. The assessment is extensive and allows the assessor to document all observations and professional determinations regarding the appropriateness of Home and Community Based Services and settings assuring that any setting even the private home have no presumptions of compliance. If the Member or applicant is in a setting that does not comply, the Member or applicant will be advised of options of remediation, relocation in setting, or other program options.

Population: All Members with service plans active during the reporting period

Sample Size/Methodology: Random cumulative sample selected according to the percentage of Members served by a single ADH/AL provider as a proportion of the total number of Members served receiving ADH/AL services on the Waiver. Sample size will be validated utilizing Raosoft Survey Design.

II. Assessment Process

Aging Services (AS), Quality Assurance and Improvement (QAI) staff review all applicable rules, provider contractual documents, lease agreements, etc. before the on-site

provider agency review. During the on-site provider agency review, AS-QAI staff review Member charts, personnel records, other agency documentation, conduct observational review of the facility, interview Members identified via random sampling procedure and evaluate this information in the context of appropriate and applicable contract standards, state, and federal rules. The Consumer-Focused Quality Care Review (C-FQCR) tools utilized by the QAI department have been revised to specifically address requirements for home and community based settings. After compiling the findings, the AS-MSU QAI lead reviewer conducts an Exit conference with the provider agency presenting the findings and the preliminary provider report. The provider is given an opportunity to provide refuting documentation at that time. Any refuting documentation is considered and the provider is provided a Final Review Letter with the Final Review Report and instruction for completing any required remedial action.

III. Remediation Strategy

Remediation

Any provider who scored below 100% on these HCB settings compliance reviews will be required to complete a Plan of Correction developed by the review team, complete two Progress Reports over a 6-month period and a Follow-up visit. The Plan of Correction includes the identification and cause of the problem, the proposed action/intervention, a monitoring plan, the person accountable, the implementation and projected completion dates and the expected outcome. The Progress Reports include the status of implementation, what data has been collected, the collection date and the person accountable. The Plan of Correction is submitted within 30 days from the date that the final reports are mailed to the agency and the Progress Reports are due every 30 days after the Plan of Correction is approved by the Programs Assistant Administrator of the Quality Assurance/Improvement department or designee. The Follow-up Review is completed during the month following the final Progress Report and includes only those Conditions that require a Plan of Correction. All annual AL and ADH reviews for SFY18 must be completed by June 30, 2018, and remediation for HCB Settings requirements and follow-up confirmation of full compliance must be confirmed by November 30, 2018 for AL and December 31, 2018 for ADH allowing appropriate time for relocation activities as necessary. Remediation will continue as a regular part of the methodology for continuous monitoring for quality assurance and improvement as outlined above.

Improvement

Full compliance is requested for all HCB Setting requirements, as well as other performance measures to be reviewed during the review. During the transition period of reviewing, both the Quality Assurance and Improvement Advisor and the Quality Assurance and Improvement Programs Supervisor, will work with providers to come into full compliance on all HCB settings by December 31, 2018 in accordance with the timeline for relocation below. Trainings have been conducted with providers, including separate trainings with ADH and AL

Providers during the fall of 2015 to explain the monitoring method and answer any questions. Providers continue to receive training at least annually regarding Quality Assurance and Improvement changes and reminders. Regional Provider Trainings were held throughout the state during the month of September 2016. Trainings were held on September 7, 2016 in Tulsa, September 8, 2016 in McAlester, September 14, 2016 in Norman, and September 15, 2016 in Lawton. The Regional Trainings provided continual education on this review process and devoted much focus to requirements of the final rule.

Plan for Relocation

1. Each Member has an individualized person-centered Service Plan, prepared by the ADvantage Case Manager in conjunction with the Interdisciplinary Team (IDT), completed during each Service Plan year or when living arrangements are modified. One section of the Service Plan is Life Transition Planning. In this area, contingency plans list choices by the Member if they can no longer stay at the assisted living and the parties available to assist with this transition.

2. Each Member has an individualized person-centered Services Backup Plan crafted by the ADvantage Case Manager in conjunction with the IDT team completed during each Service Plan year or when living arrangements are modified. This Services Backup Plan includes contingency plans for direct care assistance, critical health and supportive services, equipment repair or replacement, medications, DME supplies, transportation, etc. First, second, and third tier designated backups are also listed on the plan. The plan is signed by the Member, ADvantage Case Manager and any witnesses, if applicable.

3. Should the setting fail to reach compliance, Members, ADvantage Case Managers and the IDT will strategize utilizing the contingency plans included in the Person-Centered service plan as a basis for identifying possible living options available in the community. Immediate coordination with the ADvantage Case Manager and all other IDT members requested by the Member are critical in evaluating the wishes of the Member and the options available to them. Some of the options available would be as follows:

Assisted Living

•Transferring to another certified ADvantage Assisted Living Center

•Home with HCBS services and informal supports

•Home with Adult Day Health services

•Explore all assistance and living arrangements with family, friends

•Nursing facility placement (if necessary)

Adult Day Health

•Transferring to another Adult Day Health facility

•Remaining in the home with PCA services in place, in conjunction with informal supports

•Move to a certified ADvantage Assisted Living Center

•Explore all assistance and living arrangements with family, friends.

•Nursing facility placement (if necessary)

IV. Plan of Action

The proposed plan of action is contingent upon CMS approval of the plan.

SFY	Start Date	End Date	Milestone	Plan of Action
SFY 15	August 2014	March 2015	All Baseline Data Collected	The state will obtain baseline data using provider performance self-assessments. Baseline provider self-assessments were completed utilizing the exploratory questions from the CMS Rule toolkit.
SFY 15	March 2015	March 2015	Public Meeting	The State hosted its first public meeting regarding the requirements of the Final Rule and the Statewide Transition Plan process.
SFY 15	April 2015	April 2015	Public Meeting	The State hosted its second public meeting to discuss the draft version of the State's initial Statewide Transition Plan.
SFY 15	May 2015	May 2015	Submission of Initial SWTP	The State submitted its first version of the Statewide Transition Plan
SFY 16	August 2015	August 2015	Provider HCB Settings Compliance Training	The State (DHS Aging Services and DHS Developmental Disabilities Services) met with Adult Day Health Providers, reviewed the Final Rule, and the On-Site Visit Report that would be used to assess compliance with HCB Settings. Allowed providers opportunities for Questions and Answers.
SFY 16	October 2015	October 2015	Provider HCB Settings Compliance Training	The State (DHS Aging Services) met with Assisted Living Providers, reviewed the Final Rule, and the Consumer-Focused Quality Care Review (C-FQCR) tool that would be used to assess compliance with HCB Settings and other contractual requirements. Allowed providers opportunities for Questions and

				Answers.
SFY 16	December 2015	December 2015	Public Meeting	The State hosted its third public meeting to inform stakeholders and the public of the feedback garnered from the CMIA letter and begin the development of a plan to amend the initial Statewide Transition Plan.
SFY 16	April 2016	April 2016	Follow-up/Preliminary Site Review (Assisted Living Settings)	The State assessed all Assisted Living Providers during on-site monitoring visits and through the annual provider review process. Data was collected and analyzed to further determine compliance with the Final Rule.
SFY17	September 2016	September 2016	Regional Provider Training	The State (DHS Aging Services) met with all interested ADvantage providers, reviewed the Final Rule, and the Consumer-Focused Quality Care Review (C-FQCR) tools for Assisted Living and Adult Day Health providers that would be used to assess compliance with HCB Settings. The State also reemphasized Person-Centered Planning and its impact and every phase of service delivery.
SFY 17	October 2016	October 2016	Follow-up/Preliminary Site Review (Adult Day Health Settings)	The State assessed all Adult Day Health Providers during on-site monitoring visits and through the annual provider review process. Data was collected and analyzed to further determine compliance with the Final Rule.
SFY 17	November 2016	November 2016	Submission of Revised Statewide Transition Plan (Initial Approval)	The state submitted its revisions to the Systemic Assessment portions of the Statewide Transition Plan for initial approval.
SFY 17	January 2017	January 2017	Public Meeting	The State will host a public meeting in January to discuss and garner feedback from Stakeholders pertaining to the latest version of the SWTP.
SFY 17	January 2017	January 2017	Submission of Revised Statewide Transition Plan (Final Approval)	
SFY 17	July 2016	June 2017	New Tool Developed	The state will be utilizing a new tool in July 2016 for Adult Day Health and an amended tool for Assisted Living for

				the purpose of ongoing monitoring. These new/amended tools will include a review of provider agency contractual documents. Oklahoma Administrative Code (OAC), Oklahoma statutes, and HCBS Final Rule. The State will work with providers to identify ways to achieve compliance within required timeframes. The State will provide ongoing training and consultation to providers to ensure providers are working toward successful methods for achieving compliance.
[SFY 18]	July 2017	June 2018	Completion of Annual Reviews (All Settings Types)	The state will continue to monitor providers' compliance through the provider performance review process. Any provider that scores below 100% of the provider review will be required to complete a plan of correction.
SFY 19	November2018	November 2018	Remediation of non-compliance complete (Assisted Living)	All remediation for non-compliance with HCB Settings requirement including Plan of Correction, Progress Reporting and Follow-up visits completed by this date for Assisted Living providers
SFY 19	December 2018	December 2018	Remediation of non-compliance complete (Adult Day Health)	All remediation for non-compliance with HCB Settings requirement including Plan of Correction, Progress Reporting and Follow-up visits completed by this date for Adult Day Health providers
SFY 19	December 2018	December 2018	Notifications of Decertification Sent (Assisted Living)	Notices will be sent advising of the decertification of the Assisted Living contract with the MSU-AA, in conjunction with the Oklahoma Health Care Authority.
SFY 19	January 2019	January 2019	Notifications of Decertification Sent (Adult Day Health)	Notices will be sent advising of the decertification of the Adult Day Health contract with the MSU-AA, in conjunction with the Oklahoma Health Care Authority.
SFY 2019	March 2019	March 2019	Relocation Completed	All settings that are not fully compliant with the HCB settings regulation will be identified and individuals receiving

				HCBS in those setting will be relocated to a compliant setting.
Ongoing			Education	Trainings, provider education, and technical assistance was provided throughout the SWTP process beginning in FY15 and beyond. It will continue throughout the transition period and after the transition period has ended.

V. Baseline Assessment Process and Results

Baseline assessments were completed from August 2014 to March 2015. Providers received a survey via electronic mail and follow-up phone calls. The survey consisted of questions from the CMS Final Rule Exploratory Questions document. Follow-up calls were made to ensure that providers completed the survey in the allotted timeframe. Surveys were sent to the entire NFLOC waiver settings locations. There was an 80% response rate on the survey. The State did reach out to those providers that did not respond to the survey. Assessment results indicate that 75% of settings assessed comply with the HCBS Final Rule and 25% did not comply. It was estimated based on the baseline provider self-assessments that at least 75% of all settings comply with the HCBS Final Rule and 25% are non-compliant. A more detailed overview of the baseline provider self-assessment survey results can be found in Appendix E. In an effort to validate the baseline findings, the State conducted a follow-up assessment that included all providers in the AL and ADH settings. The State assessed these individuals during on-site monitoring visits and through the annual provider review process discussed in Section B.I that includes a site visit and Member perception survey. The C-FQCR tool was used to review Assisted Living provider settings in SFY16, while an Adult Day Site Visit Report was used for ADH provider settings in SFY16. The findings from the follow-up review indicated that most providers need minor adjustments to become fully compliant with HCBS rule. Further details concerning the results of the assessment can be found in Appendix E.

During annual reviews, if a setting is found to not fully comply and unable to complete remediation activities within required timeframe, the state will deploy relocation plan with the above referenced timeline.

VI. NFLOC Heightened Scrutiny

DHS-AS MSU-AA QAI team used the Final Rule and Exploratory Questions for Residential and Non-residential Settings to identify settings that are presumed not a home and community based setting. The facilities identified for Heightened Scrutiny are listed in Appendix F with the reason for heightened scrutiny. The assessments developed using the CMS exploratory questions, in Appendix F demonstrate the state's evidence for each setting meeting the qualities

of home and community based settings. Detailed reports of heightened scrutiny finding can be found in Appendix F. All ADvantage Assisted Living and Adult Day Health providers were reviewed using CMS guidelines for facilities to **Not** be or Presumed Not to be HCB Settings. All ADvantage providers were determined to be a HCB setting. Those identified with the CMS guidelines for facilities that are Presumed Not to be HCB Settings were further reviewed line by line with the Exploratory Questions by the DHS-AS MSU-AA QAI team and evidence was submitted demonstrating the setting had qualities of an HCB Setting and did NOT have institutional qualities.

Section C: ICF/ID Waivers

Introduction

Oklahoma operates four home and community based waivers which require an ICF/ID level of care. Average monthly enrollment in these waivers is approximately 5,382. In accordance with Title 340 Chapter 100 of the Oklahoma Administrative Code (OAC), the ICF/ID level of care is mutually exclusive from the nursing facility levels of care, which are necessary for enrollment in the waivers administered and operated by DHS DDS. The State conducted a review of all of its applicable State statutes, administrative rules, approved waivers, provider requirements, and service specifications. The results of the State's systemic review are located in Appendix B.

The following are the approved ICF/ID Waiver Programs. Daily operation of each of these waivers is the function of the Oklahoma Department of Human Services – Developmental Disabilities Services.

Community – Serves individuals who are 3 years of age and older who have intellectual disabilities and certain persons with related conditions who would otherwise require placement in an ICF/ID.

Homeward Bound – Serves individuals who are 18 years of age and older who have intellectual disabilities and certain persons with related conditions who (1) would otherwise require placement in an ICF/ID; and (2) have been certified by the U.S. District Court for the Northern District of Oklahoma as being members of the plaintiff class in Homeward Bound et al. v. The Hissom Memorial Center et al., Case No. 85-C-437-e.

In-Home Supports Waiver for Adults – Serves the needs of individuals 18 years of age and older with intellectual disabilities who would otherwise require placement in an ICF/ID.

In-Home Supports Wavier for Children – Serves the needs of children ages 3 through 17 years with intellectual disabilities who would otherwise require placement in an ICF/ID

I. Assessment Methodology & Continued Monitoring

The Oklahoma Department of Human Services (DHS), Developmental Disabilities Services Division (DDS), Quality Assurance department conducts an annual on-site performance survey with all agencies providing services through the ICF/ID Home and Community Based Waivers. Performance surveys are conducted to assess compliance with all relevant rules and policies. Performance surveys are conducted each fiscal year. The Performance survey includes an evaluating of information obtained from observations, interviews with both members and providers, and records reviewed in the context of appropriate and applicable contract standards, state, and federal rules. In accordance with current ICF/ID waiver renewal language, Raosoft is used to obtain the appropriate sample size. Once the sample size is ascertained this information is sent to the DHS Office of Planning, Research, and Statistics to select the random sample of waiver members. Utilizing Statistical Package for the Social Science (SPSS) SPSS software, individual waiver members are randomly selected. The Quality Assurance department then identifies all provider agencies and setting types that coincides with the waiver member sample. Notification is given to provider agencies of when the performance survey will be completed. The Quality Assurance department completes all performance surveys via on-site visits. The on-site visits are conducted at the individual settings where the member receives their HCB services. Individual locations are reviewed by the Quality Assurance department, thereby accounting for the providers who have more than one setting. Performance surveys are completed on an annual basis; however the survey has only recently been updated to reflect the settings requirements in the HCBS Final Rule. In SFY 16, the Quality Assurance department collected the baseline data pertaining to the HCBS settings requirements. The Quality Assurance department will continue to assess settings requirements in provider surveys on an annual basis hereafter.

The Developmental Disability, Quality Assurance department, also conducts an Area survey and has designed a Case Management Survey in an effort to further validate the Performance Survey conducted annually. The Area survey is conducted utilizing the same representative sample reviewed for the Performance surveys. The Area survey review compliance of the HCBS settings rules as it pertains to person centered planning. Data is analyzed to reflect compliance data received and reviewed during the provider performance survey process. The Quality Assurance department has designed a new Case Management review tool that will be used annually to assess 100% of members served in the four ICF/ID waivers. The data will be used to validate the results of the performance surveys, as they will be focused on member perception and experience with services received. The DDS Quality Assurance staff also plan to utilize the NCI data as a means of statistical validation. The staff will compare the results of this data with data gathered from the performance survey. Any statistically relevant discrepancies will be further investigated. All new Quality Assurance staff is required to complete 60 hours of classroom training and 180 hours of on the job training that includes shadowing a senior quality assurance staff member. After the initial 180 hours of on the job training is completed, quality assurance staff participates in 8 hours of additional training with his or her supervisor. Quality assurance staff is provided quarterly training on policy and procedural updates. An annual performance survey is conducted with agencies providing

services through a Home and Community Based Waiver, to assess compliance with expectations defined in the agency's contract. A random sample is selected by DHS Office of Planning, Research and Statistics utilizing SPSS software. Surveys are conducted during each state fiscal year with providers of residential, vocational, or non-medical home supports. A representative sample of service recipients from each of the four waivers is selected and then organized by provider agency who serves each service recipient included in the random sample. Notification is given to providers in the survey sample of when the survey will be completed. Surveys are completed through on-site visits.

Individual, Private Home

Members who reside in individual, private homes are included in the provider survey sample universe. Based on the data collected in SFY 16 and the data collected thus far in SFY 17, it reveals that individual residences are in compliance with the HCBS Final Rule on settings. There are currently no potentials for heightened scrutiny.

Population: Members with active service plans during the reporting period (All waiver members, in all waivers)

Sample Size/Methodology: Random cumulative sample selected according to the percentage of Members served in each of the ICF/ID waivers. Sample size will be validated utilizing Raosoft Survey Design.

II. Assessment Process

Developmental Disabilities Services (DDS) Quality Assurance staff review all applicable rules and provider contracts before the site visit. During the site visit, DDS Quality Assurance staff observes and conducts interviews with service recipients and staff involved in each type of service provided by the agency. Observations and interviews occur during various times of service delivery. Quality Assurance staff members evaluate information obtained from observations, interviews, and records reviewed in the context of appropriate and applicable contract standards, state, and federal rules. The survey tools utilized by the Quality Assurance team have been revised to specifically address requirements for home and community based settings. Once the site visit is complete, the DDS Quality Assurance team conducts an Exit conference with the provider agency, where the findings of the review are presented. The proposed action steps and timelines for the statewide transition plan are outlined below in the Plan of Action Section.

III. Remediation Strategy

Provider agencies surveyed by DDS Quality Assurance Staff are given two weeks after the exit conference to send the Quality Assurance Staff a written response that identifies a date by which the agency will comply with cited requirements. The projected resolution date must be

within two months of the exit conference. During SFY 17 Provider agencies that receive citations for non-compliance will be re-surveyed to assess resolution of identified contract and rule deficiencies. Each agency is re-reviewed 60 days after the original survey. DDS staff will continue to work with individual providers to achieve compliance until compliance is reached. During SFY 18, if provider agencies receive citations for non-compliance, sanctions will be imposed, and the process of relocating waiver members will commence.

Plan for Relocation

Each Member has an individualized person-centered Service Plan, prepared by the Case Manager in conjunction with the Interdisciplinary Team (IDT), completed during each Service Plan year or when living arrangements are modified. Waiver members may not remain in a non-compliant setting. Immediate coordination with the Case Manager, the IDT Team members, and the member will be critical in determining the options available. Choices of other compliant settings will be made available to the member. The member will have the opportunity to visit each of his or her choosing and will make a final selection. Waiver member will be relocated prior to March 17, 2019. Options available to the member include continuing to receive the same supports in another setting that is fully compliant with the HCBS settings or changing the supports he or she receives based on the person-centered plan. Oklahoma DDS staff will follow person-centered planning in the transition process. Individuals will have choice among qualified providers, settings and be provided opportunities to visit several settings and given information to help them understand the various options available. Individuals will be relocated as necessary by March 15, 2019.

IV. Plan of Action

The proposed plan of action is contingent upon CMS approval of the plan.

SSFY	Start Date	End Date	Milestone	Plan of Action
SSFY 14	April 2014	June 2016	Training & Education	Participated in several Final Rule trainings and survey development meetings.
SSFY 15	March 2015	March 2015	Public Meeting	The State hosted its first public meeting regarding the requirements of the Final Rule and the Statewide Transition Plan

				process.
SSFY 15	April 2015	April 2015	Public Meeting	The State hosted its second public meeting to discuss the draft version of the State's initial Statewide Transition Plan.
SSFY 15	May 2015	May 2015	Submission of Initial SWTP	The State submitted its first version of the Statewide Transition Plan
SSFY 16	July 2015	September 2015	Collected the first quarter of Baseline Data	The State obtained the first quarter of baseline data utilizing settings requirements in the provider surveys
SSFY 16	July 2015	June 2016	All Baseline Date Collected	The State obtained baseline data utilizing the updated survey to include settings requirements.
SSFY 16	December 2015	December 2015	Public Meeting	The State hosted its third public meeting to inform stakeholders and the public of the feedback garnered from the CMIA letter and begin the development of a plan to amend the initial Statewide Transition Plan.
SSFY 17	July 2016	June 2017	Provider Survey Assessments &	The State continues to

			an remediation necessary Completed	collect data and monitor compliance on settings requirements.
SSFY 17	July 2016	June 2017	Case Management Review Assessments Completed.	The State will utilize newly developed case management review assessments to validate the provider surveys.
SSFY 17	October 2016	October 2016	Follow-up/Preliminary Site Review (Adult Day Health Settings) (in conjunction with Aging)	The State assessed all Adult Day Health Providers during on-site monitoring visits and through the annual provider review process. Data was collected and analyzed to further determine compliance with the Final Rule.
SSFY 17	November 2016	November 2016	Submission of Revised Statewide Transition Plan (Initial Approval)	The state submitted its revisions to the Systmic Assessment portions of the Statewide Transition Plan for initial approval.
SSFY 17	December 2016	December 2016	Public Meeting	
SSFY 17	January 2017	January 2017	Submission of Revised Statewide Transition Plan (Final Approval)	
SSFY 18	July 2017	June 2018	Provider Survey Assessments &	The State will continue to

			an remediation necessary Completed	collect data and monitor compliance on settings requirements.
SSFY 18	July 2017	June 2018	Case Management Review Assessments Completed.	The State will utilize newly developed case management review assessments to validate the provider surveys.
SSFY 18	July 2017	June 2018	Completion of Adult Day Health Reviews (in conjunction with Aging)	The State will continue to monitor providers compliance through the provider performance review process. Any provider that scores below 100% of the provider survey will be required to complete a plan of correction.
SSFY 19	September 2018	March 2019	Sanctions imposed for non-compliant settings	The State will impose sanctions on settings that remain non-compliant according to contractual agreements.
SSFY 19	September 2018	March 2019	Relocation from non-compliant settings.	All settings that are not fully compliant with the HCBS settings regulation will be identified and individuals

				receiving HCBS in those setting will be relocated to a compliant setting.
SSFY 19	November 2018	November 2018	Remediation of non-compliance complete (Adult Day Health)	All remediation for non-compliance with HCB Settings requirement including Plan of Correction, Progress Reporting and Follow-up visits completed by this date for Adult Day Health facilities
SSFY 19	January 2019	January 2019	Notifications of Decertification Sent (Adult Day Health)	Notices will be sent advising of the decertification of the Adult Day Health contract with the DDS - QA, in conjunction with the Oklahoma Health Care Authority.

V. Baseline Assessment Process & Results

First quarter provider surveys conducted during the period of July 2015 to September 2015 are being used for baseline information. This baseline assessment information was compiled utilizing the process outlined in the Assessment Methodology and Assessment Process Section above. The baseline information included the portion of the annual representative sample served by the provider agencies surveyed, which comprised 207 service recipients and 213 different settings Assessment results indicate that 86% of settings assessed comply with the HCBS Final Rule and 14% do not comply. Since the submission of the amended Statewide Transition Plan (January 2016), the entire baseline provider surveys have been completed. The updated results can be found in Appendix G. According to the completed baseline data 94% of all settings are compliant and 6% of all setting could comply with modifications. For example, a member

receiving employment supports considered to be isolating requires modification. The member must be provided opportunities for community inclusion and competitive employment. The employment provider is required to implement a plan to offer the member opportunities to seek employment and work in competitive integrated settings. Settings are found to be non-compliant when only one setting is found to not meet the HCBS settings. For example, during the performance survey if 60 settings were reviewed and one setting was found to have not met the setting standard. The performance standard for this measure would be found as "Condition not Met." therefore not compliant with the settings standard. For those settings that were found to be non-compliant, the State will take the steps listed above in the Remediation Section to ensure compliance by March 2019. We estimate based on the baseline assessments that at least 85% of all settings comply with the HCBS Final Rule and 15% are non-compliant. Assessments are conducted to each provider on an annual basis, throughout the year, results are reported quarterly. A more detailed overview of the survey and the survey results can be found in Appendix G.

VI. ICF/ID LOC Heightened Scrutiny

Developmental Disabilities staff completed on site visits for all HCBS settings. Each setting was reviewed to ensure the setting was not in a public or privately operated facility that provides inpatient institutional treatment; and that the setting was not in a building on the grounds of, or adjacent to, a public institution. Each setting was also reviewed to determine if it isolated the member from the broader community. If the setting was determined to not be integrated and did not support the members full access to the greater community, the review team ensured that the modifications were and continue to be supported by a specific, assessed need, and justified in the person-centered plan. Section *D*: Public Input

Oklahoma hosted meetings to include representatives from advocacy and stakeholder groups as well as the state agencies involved in operating its 1915(c) waivers. The purpose of the meetings was to plan the State’s response to the new CMS rule on home and community based settings and to develop its approach to this statewide transition plan.

The Oklahoma Health Care Authority (OHCA) held a public meeting on March 10, 2015 to educate providers and stakeholders about the federal rules and the transition planning process, as well as to discuss preliminary survey results and answer questions. Final results of the surveys and transition plan was presented at the second public meeting on April 28, 2015.

OHCA held another public meeting on December 7, 2015 in an effort to make the public aware of the response letter from CMS concerning the Statewide Transition Plan, and the States process for making revisions and submitting the revised plan back to CMS. Stakeholders were made aware of the meeting through newspaper advertisements and the OHCA public website. The Public Meeting Notice was included in the 5 major Oklahoma Newspapers. The State did not receive any comments at the public meeting held on December 7, 2015. The option to submit

a written comment in a non-electronic format was made available by the State as well (http://www.okhca.org/individuals.aspx?id=16904). The revised SWTP was posted to the OHCA website on December 15, 2015. There were no comments received.

As a means of garnering more public input for the SWTP, the State and its partner agencies reached out to the established stakeholder groups and community to participate in the development of the revised SWTP. The State sent information to over 100 stakeholders, requesting their participation in the development and review of the revised plan. The state also hosted a training of over 300 providers where the SWTP was an agenda item. The State solicited feedback from the providers in attendance at the training. The majority of the comments received were related to HB 1566, the proposal of implementing managed long term care in the State. Other comments received requested clarification on the determination of compliance for certain State policies. The State added language in the SWTP that clarifies the relationship of the HCBS Final rule with the proposed managed care implementation. The State also revised the systemic assessment grid to clarify the appropriate compliance determination for the State policy in question. The revised SWTP was posted to the OHCA website on October 5, 2016. The revised SWTP was posted from October 5, 2016 to November 7, 2016. The current SWTP and each iteration of the SWTP can be found at http://okhca.org/xPolicyChange.aspx?id=19561&blogid=68505. The State provided an avenue to submit comments via electronic and non-electronic means. Written comments are accepted and can be sent directly to the Oklahoma Health Care Authority via postal mail. A non-electronic version of the posting can also be requested by phone or mail and sent via postal mail.

Stakeholders were sent a notification of the public posting. OHCA also sends an automatic notification of any new postings requiring public comment to all those who are signed up to receive notification. Each of the State partner agencies has also worked to inform individuals and providers about the public posting during meetings, trainings, and conferences. Members and providers are knowledgeable of the option to receive a non-electronic version of the SWTP as well as provide comments in a non-electronic format. The State received four comments from the 30 day posting for public comments on October 5, 2016. The SWTP was updated to include the comments received and the States responses to those comments. Modifications were made to the SWTP and other changes will be made in the submission of the SWTP for final approval based on the comments received. The comments and responses can be found in Appendix I. To summarize, the comments expressed concerns with the SWTP and the current service system delivery structure and methodology, in particular with the lack of clarity regarding how expectations, pertaining to employment and community integration will impact the individual's right to choose services and settings. Additional comments viewed the current living arrangements of service recipients to already allow for choice, but had questions about the oversight and the process of how the determination is made concerning an individuals' experience of that choice. The comments for the most part support the intent of the HCBS final rule, on the choice and integration of individuals; yet would like the State to account for the idea

that community integration for some is difficult to accomplish and unwanted. Comments also expressed the need for additional time and resources to explore community integration of the non- verbal autistic population. As a means of providing more understanding and clarification of the purpose and intent of the Final Rule, the OHCA developed a webinar to be posted on the Statewide Transition Plan website that can be viewed at the leisure of individuals desiring more education and training about the rule. The SWTP will also be updated to reflect further clarifications about the issues raised in the comments received. The State plans to hold another public meeting in January 2017 for the purpose of discussing all the revisions made to the SWTP in preparation of the submission for Final approval.

Appendix A

Appendix A: NFLOC Waivers

System Remediation Grid

Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
Setting is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	**1. Adult Day Health** OAC 310:605-13-1 Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.	Partially Compliant	This policy outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The policy addresses choice for members; however it does not directly address the requirements to be integrated and support full access to the greater community. Therefore the State has determined that it is partially compliant.	Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft of the policy and corresponding language can be found in Appendix C.	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule promulgation process. Please see Appendix C for a copy of the proposed language.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17
	2. Assisted Living OAC 310:663 Oklahoma Administrative Code 310:663 outlines the	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma.	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18)		

Appendix A: NFLOC Waivers System Remediation Grid Updated 10/16						
Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
	requirements for Continuum of Care and Assisted Living in the State of Oklahoma.		The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to silent on the HCBS Final Rule.	upholds the HCBS Final Rule Requirement.		
	3. Assisted Living OAC 317:30-5-763(18) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.			
The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the	Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
Medicaid HCBS.			HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	of the policy and corresponding language can be found in Appendix C.	promulgation process. Please see Appendix C for a copy of the proposed language.	Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017* •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17
	2. Assisted Living OAC 310:663 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18) upholds the HCBS Final Rule Requirement.		
	1. Assisted Living OAC 317:30-5-763(18)(C)(v)(III) Oklahoma Administrative	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the	No Remediation Required.		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.		requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.			
The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	1. Adult Day Health OAC 310:605-3-1 Oklahoma Administrative Code 310:605-3-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Partially Compliant	Administrative policy is partially compliant with the rule as it does address the independence and choice of the service recipient; however it does not address the opportunities to engage in community life to the same degree of access as individuals not receiving HCBS.	Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft of the policy and proposed language can be found in Appendix C.	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule promulgation process. Please see Appendix C for a copy of the proposed language.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
						March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17
	2. Assisted Living OAC 310:663 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18) upholds the HCBS Final Rule Requirement.		
	3. Assisted Living OAC 317:30-5-763(18) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully	No Remediation is Required.		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			compliant.			
The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft of the policy and proposed language can be found in Appendix C.	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule promulgation process. Please see Appendix C for a copy of the proposed language.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17
	2. Assisted Living Title 63 O.S. 1-1918 Oklahoma Statutes found in Title 63 1-1918 includes the rights and responsibilities of nursing home residents.	Fully Compliant	The State determined this policy to be fully compliant with the HCBS Final Rule as language specifically mentions the service recipient's right to manage	No Remediation is Required		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	Oklahoma Administrative Code 310:663-15-1 refers to this policy for the treatment of rights and responsibilities for service recipients in the Assisted Living facility as well.		his or her own financial affairs.			
	1. **Assisted Living** OAC 317:30-5-763(18)(C)(v)(III) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	No Remediation Required.		
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	1. **Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it	Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft of the policy and the	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule promulgation process.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
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.			remains silent. Therefore the State has determined this regulation to be silent.	proposed language can be found in Appendix C.	Please see Appendix C for a copy of the proposed language.	•Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17
	2. Assisted Living OAC 310:663 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the state has determined this regulation to be silent.	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18) upholds the HCBS Final Rule Requirement.		
	3. Assisted Living OAC 317:30-5-763(18) Oklahoma Administrative Code 317:30-5-763(18)	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS	No Remediation Required.		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	outlines the requirements for ADvantage waiver members in Assisted Living settings.		Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.			
An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	**1. Adult Day Health** OAC 310:605-3-1 Oklahoma Administrative Code 310:605-3-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Partially Compliant; Partially Non-Compliant	The State has determined that the Administrative policy is partially compliant and partially non-compliant with the HCBS Final Rule.	Remediation is Required.	The state has proposed policy that is – 317:30-5-763(1)(A)(3)(F)(iii) which states "The ADH ensures the member's rights of privacy, dignity, respect, and freedom from coercion and restraint."	November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR:

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
						March 2017 Expected effective date is 9/1/17
	2. Assisted Living Title 63 O.S. 1-1918 Oklahoma Statutes found in Title 63 O.S. 1-1918 includes the rights and responsibilities of nursing home residents. Oklahoma Administrative Code 310:663-15-1 refers to this policy for the treatment of rights and responsibilities for service recipients in the Assisted Living facility as well.	Partially Compliant; Partially non-compliant; silent	The State has determined that the Administrative policy is Partially Compliant; Partially non-compliant; silent with the HCBS Final Rule as it addresses member's rights of privacy, dignity, respect, and freedom from coercion and restraints.	No Remediation is required		
	3. Assisted Living OAC 317:30-5-763(18)(C)(iv) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	No Remediation is Required.		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.	**1. Adult Day Health** OAC 310:605-3-1 OAC 310:605-13-1 Oklahoma Administrative Code 310:605-13-1(3) outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Fully Compliant	The State has determined that the Administrative policy is fully compliant as it specifies the service recipient's independence in making choices that include daily activities, physical environment, and with whom to interact.	No Remediation is Required		
	2. Assisted Living Title 63 O.S. 1-1918 Oklahoma Statutes found in Title 63 1-1918 includes the rights and responsibilities of nursing home residents. Oklahoma Administrative Code 310:663-15-1 refers to this policy for the treatment of rights and responsibilities for service recipients in the Assisted Living facility as well.	Silent	The State has determined that the Administrative policy is Silent.	No Remediation is Required		
	3. Assisted Living OAC 317:30-5-763(18)(C)(IV)(iv) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice,	No Remediation Required		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.			
Individual choice regarding services and supports, and who provides them, is facilitated.	**1. Adult Day Health** OAC 310:605-3-1 Oklahoma Administrative Code 310:605-3-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Fully Compliant	The State has determined that the Administrative policy is fully compliant as it specifies the service recipient's opportunity to participate in developing one's care plan for services. It also specifies the service recipient's right to be involved in program planning and operation.	No Remediation is Required		
	2. Assisted Living OAC 310:663 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the state has determined this regulation to be silent.	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18) upholds the HCBS Final Rule Requirement.		
	3. Assisted Living	Fully Compliant	The Administrative Code	No Remediation		

Appendix A: NFLOC Waivers System Remediation Grid Updated 10/16						
Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
	OAC 317:30-5-763(18)(C)(IV)(iv) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.		outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	Required.		
Provider owned or controlled residential settings: 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	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	N/A – Adult Day Health Setting includes services furnished on a regularly scheduled basis, for one or more days per week in an outpatient setting.				
	2. Assisted Living OAC 310:663-13-1 Oklahoma Administrative Code 310:663-13-1 outlines the requirements for	Partially Compliant	The State has determined that the policy is consistent with and partially complies with the HCBS Final Rule. The language in the policy	No Remediation is Required		

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
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.	Continuum of Care and Assisted Living in the State of Oklahoma.		outlines the legally enforceable agreement between the provider and the service recipient.			
	3. Assisted Living OAC 317:30-5-763(18)(D)(II) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	No Remediation is Required.		
Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	N/A – Adult Day Health Setting includes services furnished on a regularly scheduled basis, for one or more days per week in an outpatient setting.				

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	2. Assisted Living OAC 310:663-7-2 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Non-Compliant; Silent	The State has determined that the policy is both Non-compliant and silent with the HCBS Final Rule.	No Remediation is Required. Policy found at OAC 317:30-5-763(18)(D)(i) must be followed by all ADvantage Waiver contracted providers and settings.		
	3. Assisted Living OAC 317:30-5-763(18)(D)(i) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Partially Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	Remediation is required.	The State will add in the following additional language at 317:30-5-763. Description of services (18) Assisted living services (ALS). (D) ADvantage ALS provider standards in addition to licensure standards. (i) Physical environment. (I) The ALC must provide lockable doors on the entry door of each rental unit and an attached, lockable compartment within each member unit for valuables. Members must have exclusive rights to his or her unit with lockable doors at the entrance of the	November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
					individual or shared rental unit. Keys to rooms may be held ***only*** by appropriate ALC staff as designated by the member's choice. Rental units may be shared only when a request to do so is initiated by the member. Members must be given the right to choose his or her roommate.	
Provider owned or controlled residential settings: Individuals have the freedom to choose roommates (if applicable)	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	N/A – Adult Day Health Setting includes services furnished on a regularly scheduled basis, for one or more days per week in an outpatient setting.				
	2. Assisted Living OAC 310:663-7-2 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18) upholds the HCBS Final Rule Requirement.		

Appendix A: NFLOC Waivers System Remediation Grid Updated 10/16						
Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
			HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.			
	3. Assisted Living OAC 317:30-5-763(18)(D)(i)(I) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	No Remediation Required.		
Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	N/A – Adult Day Health Setting includes services furnished on a regularly scheduled basis, for one or more days per week in an outpatient setting.				

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
	2. Assisted Living OAC 310:663-7-2 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Partially Compliant	The State has determined that the policy is partially compliant with the HCBS Final Rule as it specifically gives service recipients the right to furnish their own living space.	No Remediation is Required		
	3. Assisted Living OAC 317:30-5-763(18)(D)(VII) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.	No Remediation is Required.		
Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	N/A – Adult Day Health Setting includes services furnished on a regularly scheduled basis, for one or more				

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
at any time.		days per week in an outpatient setting.				
	2. Assisted Living OAC 310:663-3-1(b) Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Fully Compliant	The State has determined that the policy is fully compliant with the portion of HCBS Final Rule that says the person should have freedom to control some aspects of their schedule.	No Remediation is Required		
	3. Assisted Living OAC 317:30-5-763(18)(B) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Partially Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. This language complies with the freedom of the person to control his or her own schedule and activities.	No Remediation is Required.		
	4. Assisted Living **OAC 317:30-5-763(18)(C)(v)(II)** Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule concerning access to food.			
Provider owned or controlled residential	**1. Adult Day Health** OAC 310:605	N/A – Adult Day Health Setting				

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
settings: Individuals are able to have visitors of their choosing at any time.	Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	includes services furnished on a regularly scheduled basis, for one or more days per week in an outpatient setting.				
	2. Assisted Living OAC 310:663 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Assisted Living Facilities in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	While OAC 310:663 is silent, the setting remains fully compliant as OAC 317:30-5-763(18) upholds the HCBS Final Rule Requirement.		
	3. Assisted Living OAC 317:30-5-763(18)(D)(XII) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Non- compliant due to the restrictions of overnight visits.	The Administrative Code outlines the requirements of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in	Remediation is required.	The State will add language to OAC 317:30-5-763(18)(D)(XII) that says, " Overnight visitation is allowed as permissible by the Landlord/Tenant Agreement. "	Tribal Consultation: November 2017 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2017 •Comment Period Begins: January 2018 •Comment Period Ends: February 2018 •Public Hearing): February 2017

Appendix A: NFLOC Waivers System Remediation Grid Updated 10/16						
Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
			the setting. Therefore the State has determined this regulation to be fully compliant.			•MAC: March 2018 •Board Vote: March 2018 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2018 •SOS Submitted to OAR: March
Provider owned or controlled residential settings: The setting is physically accessible to the individual.	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	N/A – Adult Day Health Setting includes services furnished on a regularly scheduled basis, for one or more days per week in an outpatient setting.				
	2. Assisted Living OAC 310:663-7-1 Oklahoma Administrative Code 310:663 outlines the requirements for Continuum of Care and Assisted Living in the State of Oklahoma.	Non-Compliant	The State has determined that the policy is non-compliant as it specifies that the design of the Assisted Living Center shall be appropriate to service recipients with physical disabilities.	No Remediation is Required. The States ADvantage waiver program regulation for Assisted Living Centers (317:30-5-763(18)(D)(i)(XIII)), complies with the federal setting requirement.		
	3. Assisted Living OAC 317:30-5-	Fully Compliant	The Administrative Code outlines the requirements	No Remediation is Required.		

Appendix A: NFLOC Waivers System Remediation Grid Updated 10/16						
Settings Include: Adult Day Health; Assisted Living						
Regulations	**Current State Standard of Relevance**	**Compliance Status**	**States Justification of Compliance Determination**	**Remediation Required**	**Action Steps**	**Timeline**
	763(18)(D)(XIII) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.		of Assisted Living Settings. The regulation upholds the requirements of the HCBS Final Rule. Both the language in the policy and the intent of the rule provides choice, opportunity and integration of members receiving HCB services in the setting. Therefore the State has determined this regulation to be fully compliant.			
Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.	**1. Adult Day Health** OAC 310:605 Oklahoma Administrative Code 310:605 outlines the requirements for Adult Day Care Centers in the State of Oklahoma.	Silent	This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft of the policy and proposed language can be found in Appendix C.	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule promulgation process. Please see Appendix C for a copy of the proposed language.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
						Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17
	2. Assisted Living OAC 317:30-5-763(18)(C)(vi) Oklahoma Administrative Code 317:30-5-763(18) outlines the requirements for ADvantage waiver members in Assisted Living settings.	Fully Compliant	The Administrative code includes information pertaining to Heightened Scrutiny and the settings requirements and responsibilities.	No Remediation is Required.		
Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.		All State regulation, policy, or other standards are silent.		Remediation is required and will consist of updating current policy and drafting overarching language to follow the elements found in the HCBS Final Rule. A draft of the policy and proposed language can be found in Appendix C.	Language has been proposed for Medicaid Services Unit-ADvantage Administration (MSU-AA) policy OAC 317:30-5-763(3)(F) and will go through the States rule promulgation process. Please see Appendix C for a copy of the proposed language.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017

Appendix A: NFLOC Waivers

System Remediation Grid
Updated 10/16

Settings Include: Adult Day Health; Assisted Living

Regulations	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
						•ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017 Expected effective date is 9/1/17

Appendix B

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
Setting is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 317:40-5-5(c)(19)(4) OAC 317:40-5-5(c)(20) Oklahoma Administrative Code 317:40-5-5(c)(19)(4) and 317:40-5-5(c)(20) are specific to the Agency Companion setting. The language strongly suggests and supports community integration.	Fully Compliant	**Agency Companion Setting** This policy is specific to the Agency Companion setting and uses language that promotes individual integration in the community; therefore the State considers it to be consistent with the HCBS Settings Final Rule. The State has	No Remediation is required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			determined that the policy is fully compliant.			
	3. OAC 317:40-5-152(1) Oklahoma Administrative Code 317:40-5-152(1) ensures members in group home settings reside in and participate in the community.	Fully compliant	**Group Home Setting** This policy is specific to the Group Home setting and states that "Group homes ensure members reside and participate in the community." The State has determined that the policy is fully compliant.	No Remediation is Required.		
	4. OAC 317:40-5-55(8) Oklahoma Administrative Code 317:40-5-55(8) ensures members in specialized foster care settings have the right to community integration.	Fully Compliant	**Specialized Foster Care Setting** This policy is specific to Specialized Foster Care setting and promotes individuals having experiences to enhance independence and community inclusion. The State has determined that the policy is **fully compliant.**	No Remediation is Required.		
	5. OAC 317:40-7 Sub Chapter 7 (the entire sub chapter) (See AppendixD) need link. Oklahoma Administrative Code 317:40-	Partially Compliant	**Prevocational Services Setting; Supported Employment Setting** This policy is specific to	While OAC 317:40-7 Sub Chapter 7 is partially compliant, the setting remains	DDS will promulgate a rule that will ensure full compliance	•Tribal Consultation: November 2016 Permanent Rule

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	7 Sub Chapter outlines the requirements for agencies providing employment services to Medicaid HCBS service recipients. An individualized plan is developed to achieve competitive integrated employment.		Prevocational Services and Supported Employment. It identifies service options available to the individual to maximize employment opportunities. The State believes that the intent of this policy is to ensure that service recipients are integrated in the community. The state has determined that this policy is partially compliant.	fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement. In an effort to enhance its compliance policy revisions have been proposed. OAC 317:40-7-2 has been revised to reflect a new definition of competitive integrated employment. OAC 317:40-7-6 has been revised to reflect HCBS setting requirements.	with the HCBS Final Rule. The draft of the revised rule is documented in Appendix D.	Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017
	6. OAC 340:100-5-22.1 Oklahoma Administrative Cod340:100-5-22.1 directs community residential	Silent	**Agency Companion; Daily Living Supports; and Specialized Foster**	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	supports for individuals receiving Agency Companion Services, Specialized Foster Care, Daily Living Supports, as well as other HCBS. The service promotes, supports, and ensures community integration.		**Care Settings** This policy is specific to Community Residential Supports a service that is provided in the following settings: Specialized Foster Care Setting, Agency Companion Setting, Daily Living Supports Settings. The service promotes independence and integration. The State has determined that the policy is Silent.			
	7. OAC 340:100-5-50 Oklahoma Administrative Code 340:100-5-50 provides direction and purpose in designing services and supports for individuals receiving DDS HCBS. It outlines the use of the person centered planning process that is an individually focused approach to identifying the needs, preferences, goals, and desired outcomes of the person receiving services.	Silent	**All Settings** This policy is specific to principles of individual planning. It outlines the Individual Plan process and promotion of individual choice, independence, social and community integration. The intent of this policy is to promote person-centered planning	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			thereby supporting independence and integration. The State has determined based this policy is silent.			
	8. OAC 340:100-5-52 Oklahoma Administrative Code 340:100-5-52 promotes the Personal Support Team approach utilized for individuals receiving HCBS. The Team is composed of people who are selected by the service recipient and work with the recipient to insure the recipients desired person-centered outcomes.	Silent	**All Settings** The policy is specific to the composition of the individuals personal support team. It outlines the personal team responsibilities to respect the service recipients' dignity and implement the services needed to achieve the desired outcomes of the service recipient. The team promotes independence and integration as it works to support the person centered process. The State has determined based on the strong intent and premise of this policy that it is Silent	No Remediation is Required.		
	9. OAC 310:605-13-1	Partially	**Adult Day Health**	While OAC 310:605-		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	OAC 317:40-5-113 Oklahoma Administrative Code 317:40-5-113 outlines the requirements for DDS recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.	Compliant	This policy outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The policy addresses choice for members; however it does not directly address the requirements to be integrated and support full access to the greater community. Therefore the State has determined that it is partially compliant.	13-1 and OAC 317:40-5-113 is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement.		
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.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
				in federal regulations per CFR 441.301.		
	2. OAC 340:100-6-60(f)(3) Oklahoma Administrative Code 340:100-6-60(f)(3) outlines the requirement that community inclusion and access to work be assessed and addressed in the individual plan of members who receive services through the group home.	Partially Compliant	**Group Home Setting** The policy outlines the requirement for community inclusion and access to work be addressed, assessed, and in the individual plan of the service recipient. Access to work settings is addressed in the Individual Plan; therefore the State has determined the policy to be partially compliant.	While OAC 340:100-6-60(f)(3) is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement. In an effort to enhance its compliance policy revisions have been proposed. OAC 317:40-7-2 has been revised to reflect a new definition of competitive integrated employment. OAC 317:40-7-6 has been revised to reflect HCBS setting requirements.	DDS will promulgate rules that will ensure full compliance with the HCBS Final Rule. The draft of the revised rule is documented in Appendix D.	•Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2017 •Comment Period Ends: February 2017 •Public Hearing): February 2017 •MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
						•SOS Submitted to OAR: March 2017
	3. OAC 340:100-17-25 Oklahoma Administrative Code 340:100-17-25 outlines the purpose of employment services to engage in gainful and integrated employment.	Fully Compliant	**Prevocational Services Settings; Supported Employment Setting** This policy is specific to prevocational services and supported employment. It directs community integrated employment services. It outlines service recipient's independence and engagement in gainful integrated employment settings. The State has determined based on the purpose and direction of this policy that it is **fully compliant.**	No Remediation is Required.		
	4. OAC 340:100-5-50 Oklahoma Administrative Code 340:100-5-50 provides direction and purpose in designing services and supports for individuals receiving DDS HCBS. It outlines the use of the person	Silent	**All Settings** This policy is specific to principles of individual planning. It outlines the Individual Plan process and promotion of	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	centered planning process that is an individually focused approach to identifying the needs, preferences, goals, and desired outcomes of the person receiving services.		individual choice, independence, social and community integration. The intent of this policy is to promote person-centered planning thereby supporting independence and integration. The State has determined that it is Silent.			
	5. OAC 340:100-5-22.1 Oklahoma Administrative Code 340:100-5-22.1 directs community residential supports for individuals receiving Agency Companion Services, Specialized Foster Care,-Daily Living Supports, as well as other HCBS. The service promotes, supports, and ensures community integration.	Silent	**Agency Companion; Daily Living Supports; and Specialized Foster Care Settings** This policy is specific to Community Residential Supports a service that is provided in the following settings: Specialized Foster Care Setting, Agency Companion Setting, Daily Living Supports Setting. The service promotes independence and integration. The State	No Remediation Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			has determined that the policy is Silent.			
	6. OAC 310:605-13-1 OAC 317:40-5-113 Oklahoma Administrative Code 317:40-5-113 outlines the requirements for DDS recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.	Silent	**Adult Day Health** This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore, the State has determined this regulation to silent on the HCBS Final Rule.	While OAC 310:605-13-1 and OAC 317:40-5-113 is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement.		
The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the state has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
				settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 317:40-5-5(c)(19) OAC 317:40-5-5(c)(20) Oklahoma Administrative Code 317:40-5-5(c)(19) and 317:40-5-5(c)(20) are specific to the Agency Companion setting. The language strongly suggests and supports community integration.	Fully Compliant	**Agency Companion Setting** This policy is specific to the Agency Companion setting and uses language that promotes individual integration in the community; therefore the state considers it to be consistent with the HCBS Settings Final Rule. The State has determined that the policy is fully compliant.	No Remediation is Required.		
	3. OAC 317:40-5-152(A)(1) Oklahoma Administrative Code 317:40-5-152(1) ensures members in group home settings reside in and participate in the community.	Fully Compliant	**Group Home Setting** This policy is specific to the Group Home setting and states that "Group homes ensure members reside and participate in the community." The State has determined that the policy is fully compliant.	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	4. OAC 317:40-5-55(8) Oklahoma Administrative Code 317:40-5-55(8) ensures members in specialized foster care settings have the right to community integration.	Fully Compliant	**Specialized Foster Care Setting** This policy is specific to Specialized Foster Care setting and promotes individuals having experiences to enhance independence and community inclusion. The State has determined that the policy is fully compliant.	No Remediation is Required.		
	5. OAC 317:40-7 Sub Chapter 7 (the entire sub chapter) (See Appendix D_) need link. OAC 317:40-7 outlines the requirements for agencies providing employment services to Medicaid HCBS service recipients. An individualized plan is developed to achieve competitive integrated employment. Members have the same rights of employment as those non-Medicaid recipients.	Partially Compliant	**Prevocational Services Setting;-Supported Employment Setting** These rules ensures that service recipients have individualized employment assessments The State believes that the intent of this policy is to ensure that service recipients are and remain integrated, but language does not specify this intention, therefore the State has determined that this	While OAC 317:40-7 Sub Chapter 7 is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement. In an effort to enhance its compliance policy revisions have been proposed. OAC 317:40-7-2 has been revised to reflect a new definition of	DDS will promulgate rules that will ensure full compliance with the HCBS Final Rule. The draft of the revised rule is documented in Appendix D.	Tribal Consultation: November 2016 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34: December 2016 •Comment Period Begins: January 2018 •Comment Period Ends: February 2017 •Public Hearing): February 2017

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			policy is partially compliant.	competitive integrated employment. OAC 317:40-7-6 has been revised to reflect HCBS setting requirements.		•MAC: March 2017 •Board Vote: March 2017 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2017 •SOS Submitted to OAR: March 2017
	6. OAC 310:605-13-1 OAC 317:40-5-113 Oklahoma Administrative Code 317:40-5-113 outlines the requirements for DDS service recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.	Partially Compliant	**Adult Day Health** This policy outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The policy addresses choice for members; however it does not directly address the requirements to be integrated and support full access to the greater community. Therefore the State has determined that it is partially compliant.	While OAC 310:605-13-1 and OAC 317:40-5-113 is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 340:100-6-95 Oklahoma Administrative Code 340:100-6-95 outlines the rights and responsibilities of individuals residing in HCBS group home. It specifies all the rights of the individuals including the right to control personal resources to the same degree as individuals not receiving Medicaid HCBS.	Fully Compliant	**Group Home Settings** The policy is specific to service recipients in a group home. It specifies that recipients have the right to manage their own financial affairs. The State has determined that this is consistent and thereby fully compliant.	No Remediation is Required.		
	3. OAC 310:60513-1	Silent	**Adult Day Health**	While OAC 310:605-		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	OAC 317:40-5-113 Oklahoma Administrative Code 317:40-5-113 outlines the requirements for Development Delayed Service recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.		This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to silent on the HCBS Final Rule.	13-1 and OAC 317:40-5-113 is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement.		
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	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS. Provision specifies that settings are selected by the individual from among setting options and documented in the person centered plan.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.				per CFR 441.301.		
	2. OAC 340:100-5-22.1 Oklahoma Administrative Code 340:100-5-22.1 directs community residential supports for individuals receiving Agency Companion Services, Specialized Foster Care, Group Homes Services, Daily Living Supports, as well as other HCBS. The service promotes, supports, and ensures community integration.	Silent	**Agency Companion; Daily Living Supports; and Specialized Foster Care Settings** This policy is specific to Community Residential Supports, a service that is provided in the following settings: Specialized Foster Setting, Agency Companion, Setting, Daily Living Supports Settings. The service promotes independence and integration. The State has determined that the policy is Silent.	No Remediation is Required.		
	3. OAC 340:100-5-50 Oklahoma Administrative Code 340:100-5-50 provides direction and purpose in designing services and supports for individuals receiving DDS HCBS. It outlines the use of the person centered planning process that is an individually focused approach to	Silent	**All Settings** This policy is specific to principles of individual planning. It outlines the Individual Plan process and promotion of individual choice, independence, social	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	identifying the needs, preferences, goals, and desired outcomes of the person receiving services.		and community integration. The intent of this policy is to promote person-centered planning thereby supporting independence and integration. The State has determined based on the strong intent and premise of this policy that it is Silent.			
	4. OAC 340:100-5-52 Oklahoma Administrative Code 340:100-5-52 promotes the Personal Support Team approach utilized for individuals receiving HCBS. The Team is composed of people who are selected by the service recipient and work with the recipient to insure the recipients desired person-centered outcomes.	Silent	**All Settings** The policy is specific to the composition of the individuals personal support team. It outlines the personal team responsibilities to respect the service recipients' dignity and implement the services needed to achieve the desired outcomes of the service recipient. The team promotes independence and integration as it works to support the person	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			centered process. The State has determined based on the strong intent and premise of this policy that it is Silent.			
	5. OAC 310:605-13-1 OAC 317:40-5-113 Oklahoma Administrative Code 317:40-5-113 outlines the requirements for Development Delayed Service recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.	Silent	**Adult Day Health** This Administrative Code outlines the requirements for Adult Day Care Centers in the State of Oklahoma. The regulation does not contradict or speak against the requirement in the HCBS Final Rule, rather it remains silent. Therefore the State has determined this regulation to be silent.	While OAC 310:605-13-1 and OAC 317:40-5-113 is partially compliant, the setting remains fully compliant as OAC 317:40-1-3 upholds the HCBS Final Rule Requirement.		
An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule.	Remediation is required as the policy conflicts with the State's policy on restraints on Appendix G-2 sections of the Community and	The State will revise policy to specify that restraints are only allowed when specific conditions are metand modification to	Tribal Consultation: November 2017 Permanent Rule Text Submitted to Governor and Cabinet per EO 2013-34:

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			Therefore, the State has determined that it is fully compliant.	Homeward Bound 1915 (C) waivers, which permit restraints under certain circumstances.	the HCBS regulation is expressly documented in the person-centered service plan following the criteria in OAC 317:40-1-3(b)(8)(A). The revised policy will be submitted through the administrative rule making process.	December 2017 •Comment Period Begins: January 2018 •Comment Period Ends: February 2018 •Public Hearing): February 2017 •MAC: March 2018 •Board Vote: March 2018 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2018 •SOS Submitted to OAR: March
	2. OAC 317:40-5-5 Oklahoma Administrative Code 317:40-5-5 offers Agency Companion provider responsibilities which are centered on the promotion of the individual's independence, personal rights of privacy, dignity, respect, and freedom from coercion and restraint.	Fully Compliant	**Agency Companion Setting** This policy is specific to the Agency Companion setting and uses language that promotes individual integration in the community;	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			therefore the state considers it to be consistent with the HCBS Settings Final Rule. The State has determined that the policy is fully compliant.			
	3. OAC 317:40-5-55 Oklahoma Administrative Code 317:40-5-55 is specific to Specialized Foster Care and has provisions that outline the individuals' essential personal rights.	Partially Compliant	**Specialized Foster Care Setting** This policy is specific to Specialized Foster Care setting and promotes individuals having experiences to enhance independence and community inclusion. The state has determined based on this language that the Specialized Foster Care Setting partially compliant the HCBS Final Rule.	No Remediation is Required.		
	4. OAC 340:100-5-22.1 Oklahoma Administrative Code 340:100-5-22.1 directs community residential supports for individuals receiving Agency Companion Services, Specialized Foster Care, Group Homes	Silent	**Agency Companion; Daily Living Supports; and Specialized Foster Care Settings** This policy is specific to Community Residential	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	Services, Daily Living Supports, as well as other HCBS. The service promotes, supports, and ensures community integration.		Supports a service that is provided in the following settings: Specialized Foster Setting, Agency Companion, Setting, Daily Living Supports and Group Home Settings. The service promotes independence and integration. The state has determined that the policy is Silent.			
	5. OAC 340:100-5-50 Oklahoma Administrative Code 340:100-5-50 provides direction and purpose in designing services and supports for individuals receiving DDS HCBS. It outlines the use of the person centered planning process that is an individually focused approach to identifying the needs, preferences, goals, and desired outcomes of the person receiving services.	Silent	**All Settings** This policy is specific to principles of individual planning. It outlines the Individual Plan process and promotion of individual choice, independence, social and community integration. The intent of this policy is to promote person-centered planning thereby supporting independence and	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			integration. The State has determined that it is Silent.			
	6. OAC 340:100-5-52 Oklahoma Administrative Code 340:100-5-52 promotes the Personal Support Team approach utilized for individuals receiving HCBS. The Team is composed of people who are selected by the service recipient and work with the recipient to insure the recipients desired person-centered outcomes.	Silent	**All Settings** The policy is specific to the composition of the individuals personal support team. It outlines the personal team responsibilities to respect the service recipients' dignity and implement the services needed to achieve the desired outcomes of the service recipient. The team promotes independence and integration as it works to support the person centered process. The State has determined this is **Silent**.	No Remediation is Required.		
	7. OAC 310:605-13-1 (4)(B)(iii) Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required	Partially Compliant	**Adult Day Health** The State has determined that the Administrative policy is Partially Compliant with the HCBS Final Rule as it	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	to be provided to service recipients.		addresses member's rights of privacy, dignity, and respect.			
Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 317:40-5-5 Oklahoma Administrative Code 317:40-5-5 offers Agency Companion provider responsibilities which are centered on the promotion of the individual's autonomy.	Fully Compliant	**Agency Companion Setting** This policy is specific to the Agency Companion setting and uses language that promotes individual integration in the community; therefore the state considers it to be	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			consistent with the HCBS Settings Final Rule. The State has determined that the policy is fully compliant.			
	3. OAC 317:40-5-55 Oklahoma Administrative Code 317:40-5-55 has provisions that outline the individuals' autonomy and independence.	Partially Compliant	**Specialized Foster Care Setting** This policy is specific to Specialized Foster Care setting and promotes individuals having experiences to enhance independence and community inclusion. The State has determined that the policy isPartially compliant.	No Remediation is Required.		
	4. OAC 340:100-5-50 Oklahoma Administrative Code 340:100-5-50 provides direction and purpose in designing services and supports for individuals receiving DDS HCBS. It outlines the use of the person centered planning process that is an individually focused approach to identifying the needs, preferences, goals, and desired outcomes of the person receiving services.	Silent	**All Settings** This policy is specific to principles of individual planning. It outlines the Individual Plan process and promotion of individual choice, independence, social and community integration. The intent of this policy is to	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			promote person-centered planning thereby supporting independence and integration. The State has determined this policy is Silent.			
	5. OAC 340:100-5-52 Oklahoma Administrative Code 340:100-5-52 promotes the Personal Support Team approach utilized for individuals receiving HCBS. The Team is composed of people who are selected by the service recipient and work with the recipient to insure the recipients desired person-centered outcomes.	Silent	**All Settings** The policy is specific to the composition of the individuals personal support team. It outlines the personal team responsibilities to respect the service recipients' dignity and implement the services needed to achieve the desired outcomes of the service recipient. The team promotes independence and integration as it works to support the person centered process. The State has determined is Silent.	No Remediation is Required.		
	6. OAC 310:605-3-1 OAC 317:40-5-113	Partially Compliant	**Adult Day Health** The State has	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	Oklahoma Administrative Code 317:40-5-113 outlines the requirements for Development Delayed Service recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1(3) outlines the requirements for Adult Day Care Centers in the State of Oklahoma.		determined that the Administrative policy is Partially compliant as it specifies the service recipient's independence in making choices that include daily activities, physical environment, and with whom to interact.			
Individual choice regarding services and supports, and who provides them, is facilitated.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the state has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 340:100-5-50 Oklahoma Administrative Code	Silent	**All Settings** This policy is specific to	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	340:100-5-50 provides direction and purpose in designing services and supports for individuals receiving DDS HCBS. It outlines the use of the person centered planning process that is an individually focused approach to identifying the needs, preferences, goals, and desired outcomes of the person receiving services.		principles of individual planning. It outlines the Individual Plan process and promotion of individual choice, independence, social and community integration. The intent of this policy is to promote person-centered planning thereby supporting independence and integration. The State has determined this policy is Silent.			
	3. OAC 340:100-5-52 Oklahoma Administrative Code 340:100-5-52 promotes the Personal Support Team approach utilized for individuals receiving HCBS. The Team is composed of people who are selected by the service recipient and work with the recipient to insure the recipients desired person-centered outcomes.	Silent	**All Settings** The policy is specific to the composition of the individuals personal support team. It outlines the personal team responsibilities to respect the service recipients' dignity and implement the services needed to achieve the desired outcomes of the service recipient.	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			The team promotes independence and integration as it works to support the person centered process. The State has determined this policy is Silent.			
	4. OAC 310:605-13-1 OAC 317:40-5-113 Oklahoma Administrative Code 317:40-5-113 outlines the requirements for Development Delayed Service recipients receiving HCBS in an Adult Day Care Setting. Oklahoma Administrative Code 310:605-13-1 outlines the requirements for Adult Day Care Centers in the State of Oklahoma. This particular section outlines the services that are required to be provided to service recipients.	Silent	**Adult Day Health** The State has determined that the Administrative policy is Silent.	No Remediation Required.		
Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
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			Therefore, the State has determined that it is fully compliant.	compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.						
Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
staff having keys to doors.				the qualities defined in federal regulations per CFR 441.301.		
Provider owned or controlled residential settings: Individuals have the freedom to choose roommates (if applicable)	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 317:40-5-40(d)(4) Oklahoma Administrative Code 317:40-5-40 specifies that individuals have their own private room. Bedrooms are only shared when it is determined to be in the best interest of the member.	Fully Compliant	**Agency Companion Settings; Group Home Setting; Specialized Foster Care** This policy is specific to the home profile process for Agency Companion Services, Specialized Foster Care and any other situation	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			that requires home profiling. This policy specifies that bedrooms be provided for each service recipient and that adequate space be provided for privacy. The State has determined that this policy is fully compliant.			
Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
	2. OAC 317:40-5-40(d)(4) Oklahoma Administrative Code 317:40-5-40(4) outlines the individuals	Fully Compliant	**Agency Companion Settings; Group Home Setting; Specialized**	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
	freedoms to furnish and decorate living spaces.		**Foster Care** This policy outlines the service recipient's right to furnish and decorate their living unit. Therefore the State has determined that it is in full compliance.			
Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
Provider owned or controlled residential settings:	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access	Partially Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The	Remediation is required as the policy addresses the person's right to have	The State will revise policy to include the right for an individual to	Tribal Consultation: November 2017 Permanent Rule

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
Individuals are able to have visitors of their choosing at any time.	of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.		language in the policy allows for visitors at any time, but does not specify that it is visitors of the person's choosing. Therefore, the State has determined that it is Partially compliant.	visitors at any time, but not have the visitors of his or her choosing.	have visitors of his or her choosing. The State will submit the revised rules through the administrative rule making process.	Text Submitted to Governor and Cabinet per EO 2013-34: December 2017 •Comment Period Begins: January 2018 •Comment Period Ends: February 2018 •Public Hearing): February 2017 •MAC: March 2018 •Board Vote: March 2018 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2018 •SOS Submitted to OAR: March
	2. OAC 340:100-6-41 Oklahoma Administrative Code 340: 100-6-41 specifically outlines access to the group home premises.	Non-Compliant	**Group Home Setting** This policy is specific to Group homes and specifies the right of the	Remediation is required.	The State will revise OAC 340:100-6-41 to strike current	Tribal Consultation: November 2017 Permanent Rule

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
			service recipient to have visitors according to the desires of the service recipient. Therefore the State has determined that this policy is Non-Compliant.		language and include language that aligns with the Final Rule.	Text Submitted to Governor and Cabinet per EO 2013-34: December 2017 •Comment Period Begins: January 2018 •Comment Period Ends: February 2018 •Public Hearing): February 2017 •MAC: March 2018 •Board Vote: March 2018 •ARRs, RISs, and Rule Texts Submitted to Governor and Legislature March 2018 •SOS Submitted to OAR: March
Provider owned or controlled residential	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be	Fully Compliant	**All Settings** This policy outlines the requirements for all	No Remediation is Required.		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
settings: The setting is physically accessible to the individual.	fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.		HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the state has determined that it is fully compliant.			
	2. OAC 317:40-5-40(d) Oklahoma Administrative Code 317:40-5-40 outlines the requirements for physical accessibility.	Fully Compliant	**Agency Companion Settings; Group Home Setting; Specialized Foster Care** This policy outlines the requirements home standards for DDS HCBS settings that include the requirements for physical accessibility. The State has determined that this policy is fully compliant.	No Remediation is Required.		
Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS	No Remediation is Required. OAC 317:40-1-3 fully complies with the HCBS Final Rule and other documented policies are included		

Appendix B: ICF/ID Waivers

System Remediation Grid
Updated 10/2016

Settings Include: Agency Companion; Specialized Foster Care; Daily Living Supports; Group Home Services; Adult Day Health; Supported Employment; Prevocational Services

Regulation	Current State Standard of Relevance	Compliance Status	States Justification of Compliance Determination	Remediation Required	Action Steps	Timeline
located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.	receiving Medicaid HCBS.		Settings Final Rule. Therefore, the State has determined that it is fully compliant.	to enhance compliance with the Final Rule. The rule requires all DDS HCBS settings have all of the qualities defined in federal regulations per CFR 441.301.		
Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.	1. OAC 317:40-1-3 Oklahoma Administrative Code 317:40-1-3 requires all DDS HCBS settings to be fully integrated and support full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access of individuals not receiving Medicaid HCBS.	Fully Compliant	**All Settings** This policy outlines the requirements for all HCBS settings. The language in the policy precisely follows the language in the HCBS Settings Final Rule. Therefore, the State has determined that it is fully compliant.	No Remediation is Required.		

Appendix C

Proposed Language for Rule

317-30-5-763(3)(f)

(3) **Adult day health (ADH) care.**

(A) ~~Adult day health care (~~ADH~~)~~ is furnished on a regularly-scheduled basis for one or more days per week in an outpatient setting. It provides both health and social services necessary to ensure the member's optimal functioning. Most assistance with activities of daily living (ADLs), such as eating, mobility, toileting, and nail care are integral services to ADH care service and are covered by the ADH care basic reimbursement rate.
(B) ADH care is a 15-minute unit of service. No more than 32 units (eight hours) are authorized per day. The number of units of service a member may receive is limited to the number of units approved on the member's approved service plan.
(C) Physical, occupational, and speech therapies are only provided as an enhancement to the basic ~~adult day health~~ ADH care service when authorized by the service plan and are billed as a separate procedure. ADH care therapy enhancement is a maximum of one session unit per day of service.
(D) Meals provided as part of this service do not constitute a full nutritional regimen. One meal, that contains at least one-third of the current daily dietary recommended intake (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, is provided to those participants who are in the center for four or more hours per day, and does not constitute a full nutritional regimen. Member's access to food at any time must also be available in addition to the required meal and is consistent with an individual not receiving Medicaid-funded services and supports.
(E) Personal care service enhancement in ~~adult day health care~~ ADH is assistance in bathing, hair care, or laundry service, authorized by the person-centered service plan and billed as separate procedures. ~~Most assistance with activities of daily living (ADL), such as eating, mobility, toileting, and nail care are integral services to adult day health care service and are covered by the adult day health care basic reimbursement rate.~~ This service is authorized when an ADvantage Waiver member who uses ADH requires assistance with bathing, hair care, or laundry to maintain health and safety. Assistance with bathing, hair care, or laundry service is not a usual and customary ~~adult day health~~ ADH care service. ~~Enhanced personal care in adult day health care for assistance with bathing, hair care, or laundry service is authorized when an ADvantage Waiver member who uses adult day health care requires assistance with bathing, hair care, or laundry service to maintain his or her health and safety.~~ ADH personal care enhancement is a maximum of one unit per day of bathing, hair care, or laundry service.
~~(B) Adult day health care is a 15-minute unit of service. No more than eight hours, 32 units, are authorized per day. The number of units of service a member may receive is limited to the number of units approved on the member's approved service plan.~~
~~(C) Adult day health care therapy enhancement is a maximum of one session unit per day of service.~~
~~(D) Adult day health personal care enhancement is a maximum of one unit per day of bathing, hair care, or laundry service.~~
(F) DHS Home and Community-Based Services (HCBS) Waiver settings have qualities defined in federal regulation per Section 441.301(c)(4) of Title 42 of the Code of Federal Regulations (42 C.F.R. § 441.301(c)(4)) based on the needs of the individual defined in the member's authorized service plan.
(i) The ADH center is integrated and supports full access of ADvantage members to the greater community, including opportunities to:
(I) seek employment and work in competitive integrated ADH Center, not a requirement for persons that are retirement age;
(II) engage in community life;
(III) control personal resources; and
(IV) receive services in the community, to the same degree as individuals not receiving ADvantage Program or other Medicaid HBCS Waiver services.
(ii) The ADH is selected by the member from all available service options and given the opportunity to visit and understand the options.
(iii) The ADH ensures the member's rights of privacy, dignity, respect, and freedom from coercion and restraint.

(iv) The ADH optimizes the member's initiative, autonomy, and independence in making life choices including, but not limited to:

(I) daily activities;

(II) the physical environment; and

(III) with whom to interact.

(v) The ADH facilitates the member's choice regarding services and supports, including the provider.

(vi) Each member has the freedom and support to control his or her own schedules, activities, and access to food at any time.

(vii) Each member may have visitors whenever he or she chooses.

(viii) The ADH center is physically accessible to the member.

(G) ADH centers that are presumed not to be Home and Community-Based settings per 42 C.F.R. § 441.301(c)(5)(v) include:

(i) ADH centers in a publicly or privately-owned facility providing inpatient treatment;

(ii) ADH centers on the grounds of or adjacent to a public institution;

(iii) ADH centers with the effect of isolating individuals from the broader community of individuals not receiving ADvantage Program or another Medicaid HCBS;

(H) If the ADH is presumed not HCBS, according to 42 C.F.R. § 441.301(c)(5)(v), it may be subject to heightened scrutiny by AA, OHCA, and CMS. The ADH must provide evidence that the ADH portion of the facility has clear administrative, financial, programmatic, and environmental distinctions from the institution and comply with additional monitoring by the AA.

Appendix D

Proposed Language for Rule

317:40-7-2. Definitions

The following words and terms, when used in this Subchapter shall have the following meaning, unless the context clearly ~~indicate~~ indicates otherwise.

"Commensurate ~~Wage~~ wage" means wages paid to a worker with a disability based on the worker's productivity in proportion to the wages and productivity of workers without a disability performing essentially the same work in the same geographic area. Commensurate wages must be based on the prevailing wage paid to experienced workers without disabilities doing the same job.

"Competitive integrated employment" means work in the competitive labor market performed on a full-time or part-time basis in integrated community settings. The individual is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Competitive employment is an individual placement.

"Employment ~~Assessment~~ assessment" means the evaluation that identifies the unique preferences, strengths, and needs of ~~the service recipients~~ members in relation to work. The assessment determines work skills and work behaviors, is supplemented by personal interviews and behavioral observations, and incorporates information that addresses the ~~service recipient's~~ member's desired medical, physical, psychological, social, cultural, and educational outcomes, as well as present and future employment options. The assessment~~, which~~ is updated annually or more frequently as needed, includes support needs, environmental preferences, and possible accommodations.

"Enhanced ~~Rate~~ rate" means a differential rate established to provide an incentive to provider agencies to provide community employment services to ~~service recipients~~ members with significant needs.

"Group ~~Placement~~ placement" means two-to-eight ~~service recipients~~ workers with disabilities situated close together, who are provided continuous, long-term training and support in an integrated job site. ~~service recipients~~ Members may be employed by the company or by the provider agency. The terms "work crew" and "enclave" also describe a group placement.

"Individual placement in job coaching services" means one ~~service recipient~~ member receiving job ~~coach~~ coaching services, who:

(A) works in an integrated job setting;
(B) receives minimum wage or more;
(C) does not receive services from a job coach who is simultaneously responsible for continuous job coaching for a group;
(D) is employed by a community employer or the provider agency; and
(E) has a job description that is specific to his or her work.

"Individual placement in community-based services" means the ~~service recipient~~ member is provided supports that enable him or her to participate in approved community-based activities~~, as described in per OAC~~ per Oklahoma Administrative Code 317:40-7-5, individually and not as part of a group placement.

"Integrated ~~Employment Site~~ employment site" means an activity or job that provides regular interaction with people without disabilities, excluding service providers, to the same extent that a worker without disabilities in a comparable position interacts with others.

"Job ~~Coach~~ coach" means an individual who holds a ~~DDSD~~ DDS-approved training job coach certification and provides ongoing support services to eligible persons in supported employment placements. Services directly support the ~~service recipient's~~ member's work activity including marketing and job development, job and work site assessment, training and worker assessment, job matching procedures, development of co-worker natural and paid supports, and teaching job skills.

"Job ~~Sampling~~ sampling" means a paid situational assessment whereby a ~~service recipient~~ member performs a job at a prospective employer's integrated job site~~,~~ in order to determine the ~~service recipient's~~ member's interests and abilities. Situational assessments adhere to the Department of Labor (DOL) regulations regarding wages. The Personal Support Team (Team) determines the appropriate type and number of situational assessments for each ~~service recipient~~ member.

"~~On-Site Supports~~ On-site supports" means a situation in which the job coach is physically at the job site providing job training to a ~~service recipient~~ member.

"Situational assessment" means a comprehensive community-based evaluation of the ~~service recipient's~~ member's functioning in relation to the supported job~~,~~ including the job site, ~~the~~ community through which the ~~service recipient~~ member must travel to and from the job, and ~~the people~~ those at the job site, such as the job coach, co-workers, and ~~supervisor~~ supervisors.

"~~Sub-Contract With Industry~~ Sub-contract with industry" means the provider agency enters into a sub-contract with an industry or business to pay industry employees to provide supports to ~~service recipients~~ members. ~~If~~ When the industry agrees, the provider agency may contract directly with an industry employee(s) ~~of the industry directly~~ to provide the services. The state continues to pay the provider agency and the agency provides all pertinent information ~~that is~~ required for persons served by the agency. The Team determines what, if any, training is required for the employees of the industry providing services.

"Supported ~~Employment~~ employment" means competitive work in an integrated work setting with ongoing support services for ~~service recipients~~ members for whom competitive employment has not traditionally occurred or ~~has been~~ was interrupted or intermittent as a result of the member's disabilities.

"Unpaid ~~Training~~ training" means unpaid experience in integrated employment sites ~~in accordance with~~ per DOL regulations. ~~Service recipients~~ Members do a variety of tasks~~, which~~ that do not equal the full job description of a regular worker.

"Volunteer ~~Job~~ job" means an unpaid activity in which a ~~service recipients~~ member freely participates.

317:40-7-6.

317:40-7-6. ~~Center-Based Services~~ Center-based services

(a) ~~Center-Based Services~~ Center-based services are ~~provided in segregated settings, where the majority of people served have a disability. Any employment service provided where a majority of the people at the site are persons with a disability is billed as Center-Based Services~~ any employment service provided where a majority of the people at the site are persons with a disability. These settings facilitate opportunities to seek employment in competitive settings and support access to the greater community.

(b) ~~Center-Based Services~~ Center-based services are pre-planned~~,~~ documented activities that relate to the member's identified employment outcomes.

(c) Examples of ~~Center-Based Services~~ Center-based services are active participation in:

(1) ~~paid contract work which occurs in a workshop or other center-based setting~~ learning and work experiences where the individual can develop general, non-job-task specific strengths and skills that contribute to employability in paid employment in integrated community settings~~.~~;

(2) ~~Team-prescribed~~ team-prescribed therapy programs, such as speech, physical therapy, or switch activation ~~which are~~ implemented by employment provider staff in the workshop or other center-based setting~~.~~; and

(3) ~~unpaid training or paid work experience which occurs in a setting without opportunities for regular daily interactions with co-workers without disabilities or the general public.~~

~~(4)~~ computer classes, ~~GED~~ General Education Development preparation, job club, interviewing skills, or other classes whose participants all have disabilities, even ~~if~~ when the location is in the community.

(d) Paid contract work is usually subcontracted, and the persons receiving services earn commensurate wage according to Department of Labor regulations.

(e) ~~For SoonerCare reimbursement in Center-Based Services, a member's pay cannot exceed 50% of minimum wage.~~

~~(f)~~ Participation in Center-Based Services is limited to 15 hours per week for persons receiving services through the Homeward Bound Waiver, unless approved through the exception process explained in OAC 317:40-7-21.

~~(g)~~(f) ~~Agency~~ The provider agency must meet physical plant expectations ~~of OAC~~ per Oklahoma Administrative Code 340:100-17-13.

~~(h)~~(g) During periods in which no paid work is available for members, despite the provider's documented good faith efforts ~~of the provider~~ to secure ~~such~~ work, the employment-provider agency ensures ~~that~~ each member participates in training activities that are age appropriate, work related, and consistent with the ~~IP~~ Individual Plan. Such activities may include, but are not limited to:

(1) resume development and application writing;
(2) work attire selection;
(3) job interview training and practice;
(4) job safety and evacuation training;
(5) personal or social skills training; and
(6) stamina and wellness classes

Appendix E

NFLOC Waiver Settings & Compliance*

NFLOC Settings	Description of Settings	Number of Settings	Number Sampled
Assisted Living	Personal care and supportive services that are furnished to waiver members who reside in a homelike, non-institutionalized setting that includes 24 hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security.	7	4
Adult Day Health	Services furnished on a regularly scheduled basis for one or more days per week, in a community setting, encompassing both health and social services needed to ensure the optimal functioning of the individual.	27	23
		34	28
			Compliance Percentage – 75%
			Non – Compliance Percentage – 25%

*Data and Compliance percentages based on initial baseline provider self-assessments.

NFLOC Waiver Settings & Compliance**

NFLOC Settings	Number of Settings	Percentage of Compliance	Percentage that will comply with modifications	Percentage of non-compliance	Main Reasons for Non-Compliance
Assisted Living	7	71%	29%	0%	* Transportation for shopping on a regular basis * Community access and information regarding community activities * Receiving services to the same degree as individuals not receiving HCBS waiver services * Missing policies and statements regarding freedom from coercion and restraint * Information regarding change in services request
Adult Day Health	29***	0%	100%	0%	* Information to provide knowledge of or access to age and ability appropriate community activities * Weekly activities of going out into the community * Opportunities to interact with the general public * Member's service plan goals missing from Member's record. * ADH did not participate in IDT or with the CM to know the goal of ADH services. * Opportunities for changes in needs or changes of preference in services. * Secure place for the storage of personal items. * Talking about an individual and their needs in front of others. * Isolating or separation of those individuals with behavior needs. * Some centers had gates, locked doors, fences or other barriers preventing individuals from entering or exiting areas. * Physical environment did not support a variety of individual's goals and needs. * Individuals were not allowed to choose when and with whom to eat * Opportunities for individuals to understand their options regarding services and providers * Opportunity for individuals to regularly and periodically update or change their preferences * Information was not posted or provided regarding procedures to change preferences

** Refers to Follow-up provider onsite reviews completed April 2016 (Assisted Living) and October 2016 (Adult Day Health)

*** Two additional facilities received ADvantage contracts that were not contracted when the baseline review was completed.

Comment [OHCA1]: Add information to this chart. Percentages need to be broken down into these categories and give some examples of reasons that the setting may not current by compliant.

Appendix F

NF LOC Settings - Heightened Scrutiny

The final rule Final Rule identifies settings that are presumed NOT home and community-based settings. These settings include those in a publicly or privately-owned facility that provide inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS. A state may only include such a setting in its Medicaid HCBS programs if CMS determines through a heightened scrutiny process, based on information presented by the state and input from the public that the state has demonstrated that the setting meets the qualities for being home and community-based and does not have the qualities of an institution. (For more information about the heightened scrutiny process, see Section 441.301(c)(5)(v)Home and Community-Based Setting).

Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

• The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability.

• The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them.

Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

• The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.

• People in the setting have limited, if any, interaction with the broader community.

• Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

Locations Identified for Heightened Scrutiny	Address	Reason
Ash Street Place	111 South Ash St., Guthrie, Ok. 73044	Located Across the Street from NF
North Country	522 N 22nd St. Collinsville, Ok., 74021	NF on the corner of same block
Francisiscan Village	17110 East 51st St, Broken Arrow, Ok. 74021	Shares the same building with NF
Mercy Love County Adult Day Center	200 Wanda St., Marietta, OK 73448	On the Grounds of Mercy Love Hospital
Heartsworth Assisted Living	302 Brewer St., Vinita, OK. 74301	In same proximity of nursing facility
Village at Oakwood	817 SW 59th St., Oklahoma City, Ok, 73109	100% Medicaid Facility

Heightened Scrutiny Plan of Action

1. Identify any setting that is presumed NOT Home and Community-Based

2. Review setting through onsite visit to include observations and interviews

3. Complete documentation to submit to CMS to demonstrate heightened scrutiny and that the setting does not have the qualities of an institution

4. Submit documentation to CMS.

5. If location does, have qualities of institution, the state will begin the Remediation process. If Remediation is not an option, the state will begin the process of Relocation.

Appendix G

ICF/ID Settings & Compliance Grid*

ICF/ID Settings	Description of Setting	Number of Settings
Agency Companion Services	A living arrangement developed to meet the specific needs of the member which offers live in companion for supervision, supportive assistance, and training in daily living skills provided in a home shared by the companion and the member	175
Daily Living Supports	Daily Living Supports are provide to members in order to enable them to reside successfully in certain community-based settings; accomplishing tasks they would normally do for themselves if they did not have a disability.	1123
Specialized Foster Care	An individualized living arrangement offering up to 24 hours per day supervision, supportive assistance and training in daily living skills. Services are intended to allow a member to reside with a surrogate family. Services are provided to one to three members in the home in which the Specialized Foster Care providers resides.	159
Adult Day Health	Services are furnished on a regularly scheduled basis, for one or more days per week, in a community setting, encompassing both health and social services needed to ensure the optimal functioning of the individual	33
Group Home Services	Services are provided in licensed homes for up to 12 members. Services are developed in accordance with the needs of the member and include supports to assist the members in acquiring, retaining and improving self-care, daily living, adaptive and leisure skills needed to reside successfully in a shared home within the community	153
Supported Employment	Supported employment is conducted in a variety of settings, particularly work sites, in which persons without disabilities are employed. Supported employment includes activities that are outcome based and needed to sustain paid work by members, including supervision and training.	1115
Total Number of Settings	Number Sampled	Compliance Percentage – 86%
2758	288	
		Non- Compliance Percentage – 14%

*Information is based on the first quarter data used for baseline data in the January 2016 Amended STP submission.

ICF/ID Settings & Compliance Grid

ICF/ID Settings	Number of Settings	Percentage of Compliant	Percentage that will comply with modifications	Percentage of Non-Compliant	Main Reasons for Non- compliant
Agency Companion Services	175	100%	n/a	n/a	n/a
Daily Living Supports	1123	100%	n/a	n/a	n/a
Specialized Foster Care	159	100%	n/a	n/a	n/a
Adult Day Health	33	To be determined by 10/2016	To be determined by 10/2016	To be determined by 10/2016	To be determined by 10/2016
Group Home Services	153	94%	6%	0	Not receiving services to the same degree as individuals not receiving Medicaid HCBS services
Supported Employment	1115	84%	16%	0%	Opportunities to seek competitive integrated employment; Options offered do not include non-disability settings; Limited access to the broader community.
	2758				

Comment [OHCA2]: Complete all of these fields for each setting. If you are unable designate the specific setting, change the columns on the left to reflect residential and non-residential, but give a description of what is included in each. Please let me know if you have any questions.

Comment [OHCA3]: Used this date to be consistent with timeline and aging's review of adult day health centers.

Appendix H

ICF/ID Settings – Heightened Scrutiny

The final rule identifies settings that are presumed to have institutional qualities and do not meet the rule's requirements for home and community-based settings. These settings include those in a publicly or privately-owned facility that provide inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS. A state may only include such a setting in its Medicaid HCBS programs if CMS determines through a heightened scrutiny process, based on information presented by the state and input from the public that the state has demonstrated that the setting meets the qualities for being home and community-based and does not have the qualities of an institution. (For more information about the heightened scrutiny process, see Section 441.301(c)(5)(v)Home and Community-Based Setting).

Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

- The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability.
- The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them.

Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

- The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.
- People in the setting have limited, if any, interaction with the broader community.
- Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

Locations Identified to Have Institutional Qualities	Address	Reason
Opportunity Center	2225 N. Union, Ponca City, OK 74601	Adjacent to an ICF/ID location
Reliant Living Center	3317 SE 18th Street, Del City, 73115	Adjacent to an ICF/ID location
Gateway Foundation	1217 E. College, Broken Arrow, OK 74012	Adjacent to an ICF/ID location
People Inc.	205 JT Stites Blvd., Sallisaw, OK 74955	Potentially Isolating
Sequoyah Enterprises Inc.	103 E. 32nd Street, Stillwater, OK 74075	Potentially Isolating
Sequoyah Enterprises Inc.	12951 Jenny Lane, Wayne, OK 73095	Potentially Isolating
Home of Hope	360 W Hope Ave. Vinitia, OK 74301	Adjacent to an ICF/ID location
McCalls Chapel	13546 CR3600, Ada, OK 74820	Adjacent to an ICF/ID location
Center of Family Love	600 W. Oklahoma, Okarche, OK 73762	Adjacent to an ICF/ID location
Mercy Love County Adult Day Center	200 Wanda St., Marietta, OK 73448	Adjacent to an ICF/ID location

Heightened Scrutiny Plan of Action

1. Identify any setting that is presumed to have qualities of an institution

2. Review setting through onsite visit to include observations and interviews

3. Complete documentation to submit to CMS to demonstrate heightened scrutiny and that the setting does not have the qualities of an institution

4. Submit documentation to CMS.

5. If location does, have qualities of institution, the state will begin the Remediation process. If Remediation is not an option, the state will begin the process of Relocation.

Appendix I

Oklahoma Comments and Responses

Comment 1

Comment:
Not everyone is capable of working independently in the community and the state does not want to pay for the continuous support. Natural supports are great, but are not always readily available in the real world. Believe it or not, there are individuals that DO NOT want to work in the community. They've tried it, several times, and don't like it. They want to work with their friends and staff they trust, not people that change every day or two, not people that talk to them like they are children or don't talk to them at all or treat them like they don't even exist and yes, that does happen to the population we work with more often than anyone cares to admit.

Related Folder Name: Policy Blog
Related Post Name: Amended Statewide Transition Plan

Oklahoma Response to Comment 1-All services are individualized and provide the supports needed for individuals to successfully participate in community jobs. The waiver provides job coaching support up to 100% of the time an individual works on the job. Through the National Core Indicators Adult Consumer Survey, 74% of the participants without a paid job in the community reported they would like a paid job in the community in Oklahoma. As the data shows, there are people who are interested in new experiences and in achieving new life goals. The state will also add in its narrative section for the Final Approval more information about how it seeks to utilize the National Care Indicator's Data as a means of validation of settings compliance.

Comment 2

Comment:
low functioning nonverbal autism needs are not met with a meaningful day out in her community this population needs to be looked into

Related Folder Name: Policy Blog
Related Post Name: Amended Statewide Transition Plan

Oklahoma Response to Comment 2 -Experiencing the community is different for each individual. The team will meet to identify the plan to be implemented as a means of person-centered planning.

Comment 3

Comment:
If you're trying to integrate everyone into community jobs, sadly you will have a lot of people who will be both sad and along e because they can't for whatever reason work in the public, but they still need a workshop to go to and earn money and have friends. To say that all of the people we serve are capable of being in a public setting and work is classifying them as all the same and they are as individual as you or I are.

Related Folder Name: Policy Blog
Related Post Name: Amended Statewide Transition Plan

Oklahoma Response to Comment 3- Oklahoma continues to support a variety of options for individuals with intellectual and developmental disabilities. We believe it takes every kind of opportunity to support choice. The new regulations help expand the qualities of the services and settings and enhance the opportunities for individuals to work, earn money in the general workforce and be recognized as major contributors to the community. We are so fortunate to have 61% of individuals participating in employment services already participating in community employment. All services remain individualized; the intent of the rule is to promote individual choice. Therefore, the client has the power and autonomy to choose what he or she would like to do.

Comment 4

Commenter Name: Holly Howard
Comment:
Concerns remain regarding the Oklahoma Amended Transition Plan for the HCBS Final Rule and the current service system delivery structure and methodology. Oklahomans that receive the waiver do currently live in segregated disability specific circumstances and live a life of “choice” determined by funding, provider resources and/or policies and beliefs, and the policies of Oklahoma Developmental Disability Services. Their ability to determine and then experience the life they want to live is hampered by the very policies used in this transition plan for justification of compliance to the Final Rule. The stated intention of the Final Rule includes: • HCBS Settings are integrated in and supports access to the greater community • Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources • Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services Home and Community-Based Setting Requirements: • 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 – Person-centered service plans document the options based on the individual’s needs, preferences; and for residential settings, the individual’s resources • Ensures an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint • Optimizes individual initiative, autonomy, and independence in making life choices • Facilitates individual choice regarding services and supports, and who provides them Home and Community-Based Setting Requirements for Provider-Owned or Controlled Residential Settings: • Each individual has privacy in their sleeping or living unit • Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed • Individuals sharing units have a choice of roommates • Individuals have the freedom to furnish and decorate

their sleeping or living units within the lease or other agreement • Individuals have freedom and support to control their schedules and activities and have access to food any time • Individuals may have visitors at any time • Setting is physically accessible to the individual Concerns have been raised previously regarding the methodology and assessment process used to determine and enforce compliance i.e. National Core Indicators and OK-Aim Surveys. There is no mention of these tools in the latest version of the transition plan and by all accounts it now appears that the only assessment method will be through the Developmental Disability Services Quality Assurance Staff effectively expecting the organization that oversees the services to monitor itself and those they have contracted with to deliver those services presenting an enormous conflict of interest. OKDHS and individual providers benefit from appearing 100% compliant with CMS standards. There is no mention of any outside quality assurance, assessment, or compliance determination method and with the rate cuts that providers experienced the previous fiscal year and the loss of appropriations to DHS resulting in large scale reduction in force (including Case Managers, administrative, oversight and protection positions), what transparent reporting and assessment can we expect? In the Appendixes, the States Justification of Compliance Determination continues to only record policy as the determining factor justifying compliance. I would point out that written policy does not make something a reality. We have countless laws, rules and mandates to ensure equal opportunity and protection of human rights and yet we continue to have individuals with disabilities experiencing institutional, segregated, isolated lives controlled by systems and others hence the recognition by CMS for the need of the HCBS Final Rule. Following are observations of concern: Group Home Settings and DLS Homes: • Residents have diminished opportunities to travel into the community and participate in the community at their discretion because of transportation limitations. A GH may have only one van for 6 to 12 residents; Staff ratio of 1:6 to 12; DLS may have a staff ratio of 1:3 (during some hours 2:3) and the staff dependent on their personal vehicle for resident's transportation – staff that on average make $8-$9 an hour and may not have reliable transportation themselves. • Group Homes often require shared rooms and when an individual moves to a group home they get the empty bed with no choice regarding with whom they share a room. In DLS homes, residents have no say in who their housemates will be. Generally, if an individual has been approved for DLS the Case Manager determines what "open slot" would "work best" and that is the home offered. It is a difficult and cumbersome ordeal for an advocate, guardian, individual or family member to find the open placements and arrange to visit those places to determine compatibility and make an informed choice. Resident's requests to move to a more preferable setting find this an arduous, delayed and even ignored request and most requests are denied especially if the individual wants to live in a setting different than the one they currently live. • Residents have varying level of support needs and due to the lack of staffing and overall inherent training philosophy of a model of care the entire home will be leveled down to the individual with the highest support needs which impacts the choice, community involvement, and overall life quality of the others in the home. • Group Homes are not always in neighborhood settings and consistently are set apart from the community. Many Group Homes are actually on large campuses connected to more institutional type settings. • DLS homes may be regular homes in a neighborhood but they are set apart and undeniably defined by the neighbors as different. With the coming and going of staff, therapists, case managers, etc. they are recognized as different. The staff are not trained to interact and engage nor assist the residents to interact and engage with neighbors and their community. • Often, both Group Homes and DLS homes are located in areas that are inherently rural in nature lacking public transportation access, community activities, opportunities for inclusive employment and recreational activities. • Individuals are not regularly given keys to their homes and often the doors are unlocked 24 hours a day. Group Homes and DLS homes do not have established guidelines for individuals to choose who visits their home and when. It appears more like an open-door policy mostly relating to the staff and/or their families, therapists, and DDS staff. • Relating to the assessment by the state of full compliance regarding individuals being in control of their own finances, what percentage of individuals being supported have Representative Payee's and what is the percentage of those individual's money/finances being controlled by their provider agency? Is there a process to determine if an individual has any unpressured choice or role in decision making regarding control of their finances? Person Centered Planning: Person Centered Planning must begin with Person Centered Thinking. Person-Centered thinking is a set of skills and tools based on the values of independence, rights, choice and control, working together and inclusive communities. The presence of Person Centered thinking is a necessary condition for delivering Person Centered support and outcomes. It is always driven by the person at the center of the process with THEIR chosen allies helping. If the

current service delivery structure does not understand or hold within their core philosophy Person Centered Thinking, then there is no way to deliver supports in a Person-Centered Process. • A multi-page interview form authorized and completed by the staff, provider agency and/or case manager does not meet the core of Person Centered Thinking or Planning • Information filled into the forms prior to a Person-Centered Planning meeting does not constitute choice, independence and control • A format that considers supporting the family over supporting the individual first many times hinders an individual's right to choose the life they want • Beyond the forms provided by DDS or provider agency most support staff and case managers have limited knowledge of any other Person Centered Tools and the forms provided are viewed as a requirement to meet statutory obligations rather than as tools to facilitate the development of a Person-Centered Plan for a person to experience the life they choose • There is a greater emphasis on the assurance of including the provider agency and behavioral support providers in a "team meeting" than on the inclusion of allies, advocates, friends (not paid staff), guardians and families that the person has chosen or would choose to attend • Often times guardians, advocates and families are not included in the "team meetings" • How often are individuals not in attendance to their own meeting? • How often are individuals "talked about" at their meetings rather than included in the actual discussion regarding what they want their life to look like and how best to support them? • When an individual only experiences what they experience they do not often know what other opportunities are available and just because they are told about another opportunity does not necessarily give them the information they need in the manner they need it to make an informed choice. What standards of measure are used to ensure that individuals have true choice and opportunities to try out different experiences? • A Provider may have a contractual relationship or operate a "day program/sheltered workshop" and that gives them inherent motivation to encourage an individual to make that selection or an automatic assumption that is what an individual will do for their day activity (for ease of transportation, staffing, and additional funding allocations). What accountability standards are in place to prevent undue influence? • An individual with a more significant disability or a person that has nontraditional expressive language has the ability to participate in their planning process but generally there are no tools to facilitate their participation including limitations to assistive technology, time constraints and an inherent belief that they are unable to contribute. What methods of assurance are used to guarantee that all individuals are equally equipped and encouraged to participate? • Guardianship has been utilized as a technique to infringe on the rights of individuals to make decisions rather than as it was intended to assist with decision making ONLY when a person lacks the capacity to make informed decisions on their own. • The options for living, employment, recreation and/or transportation that are considered all fall within the context of the service delivery system and the contracted providers. Options for non-disability specific settings are not included. Beyond just saying that those options were offered and the individual declined, what evidence and accountability will be documented reflecting true choices were considered, explored and experienced? • Once a plan is written and approved, what is the process to make modifications, report issues or file grievances? This is not transparent. • A Person-Centered Plan is a living document and should be treated as such. All the professionals in an individual's life should be familiar with the most recent plan, outcomes, actions, and choices; however, there is not a process for this to occur and there is no mechanism to ensure that what is in a plan is actually taking place throughout the year. • Considering the frequency of staff turnover and now with the continuous changes within the Developmental Disability Services division itself, a plan in Oklahoma is filed paperwork for statutory requirement. What is the guarantee that anyone in an individual's life at the moment is even familiar with their plan? Quality Assurance: • Historical lack of punitive consequences to a provider that does not appropriately support and/or protect the individuals they serve. If a provider agency is at full capacity, "vendor hold" does not constitute any real concern and is generally a temporary consequence at best. Rigorous Quality Assurance occurs only when there are sufficient monitors outside of the system of influence so as to insure no conflict of interest. • The process for an individual to express fear of or actions of abuse, neglect or exploitation is not transparent. How would an individual report abuse without having to fear retribution? How is that reporting tracked? Sheltered Workshops: • How many individuals in Oklahoma Disability Services are still experiencing "employment" in a sheltered workshop setting? What are the specific Person Centered tools used to determine choice regarding employment, volunteering or combination of both? What measurements are utilized to determine when training is completed? • Changing the language from Sheltered Workshops to Center Based Services does not change the inherent nature of segregation, isolation and disability specific settings. Oklahoma's long history of

supporting sheltered workshop (training) programs has rarely resulted in meaningful self-sufficient employment opportunities in the greater community. How long is long enough for an individual to be in a training program? Day Programs: The long history of day programs (adult day care) does not reflect personal choice of activities or recreation. The option to choose from a given set of activities is not actually choice. Day programs are most often settings that are away from the greater community and when a community activity is planned it is with a group not individually so a person does not have the opportunity to experience inclusion. An additional concern is the disparity in age of the participants. Managed Care: As noted, the State of Oklahoma, pursuant to House Bill 1566 which passed the Oklahoma Legislature and was signed by Governor Mary Fallin in April 2015, is in the process of issuing a Request for Proposal (RFP) for a care coordination model for the Aged, Blind, and Disabled populations (ABD). Advocates, stakeholders, families and self-advocates have consistently expressed concern that a managed care model will have a great and detrimental impact on the quality of services/supports and quality of life for individuals receiving waivered services. • There is evidence that organizations have limited understanding of the support needs for individuals with disabilities and how to facilitate a life in the greater community no different than the one others experience. Statements in printed material that reflect supports would be options like a refrigerator to hold an individual's insulin are alarming to say the least. • When a solicitation is awarded under managed care the organization will know what they will be paid and the only way for them to increase their profit margin is to reduce the services, supports or options for individuals they are supporting. Considering that the organizations that will be bidding are FOR PROFIT large corporations, that leaves one to wonder what impact that would have on an individual's life? • It has been stated that the organizations would have Case Managers (care coordinators) at a ratio of 1:70 and up to 100. How is a care coordinator supposed to facilitate the supports and person centered planning process for 70 to 100 cases? • Often times the case manager is the only true oversight, the person that has the ability to recognize and identify if there is a cause for concern. There has been an indication that under the managed care model there may be an Ombudsman that would be employed by the organization. What assurance of non-biased determinations exist within that context? • The stakeholders, advocates, self-advocates, providers, and the public at large will have almost no direct knowledge of the contents of the RFP until it is released for solicitation limiting our ability to address specific concerns or problems. • With the Care Coordination set to begin for the waivered recipients at the same time compliance for the Final Rule is expected, what are the assurances, measurements and oversight processes to ensure that the organizations that are awarded the contracts will follow the expectations of the Final Rule? There is acknowledgement that the state is operating under extremely difficult circumstances and funding shortages have significantly impacted the service delivery system and providers. It is also important to note that the state has progressed in closing all the state funded large congregant institutional settings; however, it is our obligation as advocates to identify and reveal concerns regarding the Oklahoma Transition Plan. Intent, even of the truest kind; mission statements; and policies do not constitute nor guarantee that the state is in compliance with the expectations outlined in the HCBS Final Rule. The fundamental outcome of the Final Rule is to ensure the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services. The intent is that individuals receiving Medicaid-funded HCBS have the opportunity to receive these services in a manner that protects individual choice and promotes community integration so that they can live their best life.

Related Folder Name: Policy Blog
Related Post Name: Amended Statewide Transition Plan

Oklahoma Response to Comment 4- The new regulations add quality to HCBS and provide additional protections to members who receive these services. The Statewide Transition Plan includes a review and analysis of all settings where HCBS are provided. Surveys were conducted to assess whether the settings meet HCBS requirements.

DDS quality assurance staff assesses the delivery of supports consistent with the preferences and needs of members, Oklahoma Department of Human Services (DHS) rules, applicable Oklahoma Health Care Authority (OHCA) rules, DHS and OHCA contract requirements, and federal and state laws. Case managers assess services provided to members to ensure the services are effective in meeting his or her needs. Ok AIM promotes service enhancement by providing formal assessments of contract providers. The National Core Indicators Adult Consumer Survey provides data, annually, to measure Oklahoma DDS Quality Improvement. The core indicators are standard measures used across states to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including employment, rights, service planning, community inclusion, choice, and health and safety. DDS reviewed Oklahoma Administrative Code to identify changes necessary to ensure compliance with the HCBS settings requirements. DDS utilizes a person-centered planning process that is an individually focused approach identifying the needs, preferences, goals, and desired outcomes of the person receiving services. The process ensures members have access to quality services that encourages independence, learning, and growth, choices, meaningful relationships, full community participation, dignity and respect, and positive approaches focused on skill enhancement. The SWTP will outline in further detail as it prepares for its final submission the relationship between the National Core Indicators Adult Consumer Survey and the site specific assessments conducted by DDS staff.