

## State of Montana Home and Community Based Services Settings Transition Plan

| Section 1: Public Comment on Transition Plan  |  |                     |  |   |                  |
|---|--|---------------------|--|---|------------------|
| Action Item   | Description  | Proposed Start Date | Proposed End Date  | Milestone Status  | Remedial Actions |
| Provider/stakeholder letter of introduction   | DPHHS sends informational overview with a cover letter.  | 09/03/14            | 10/01/14   | 10/01/14  | N/A              |
| Draft transition plan available on website  | DPHHS has DRAFT on website.  | 09/30/14            | 10/08/14   | 10/08/14  | N/A              |
| Schedule a public meeting and webinar for transition plan   | DPHHS schedules public meeting on October 28, 2014, 9:00 a.m. to noon, at the DPHHS Auditorium, 111 N. Sanders Street, Helena. Participation possible in person or by webinar. | 9/3/2014            | 10/28/14   | 10/28/14  | N/A              |
| Tribal Consultation letter and Public notice sent to interested parties                                 | DPHHS drafts the tribal consultation letter and the public notice with the information about the website and stakeholder public meeting.                                       | 09/03/14            | 9/29/2014, mail letter by 10/6/14; publish in newspapers by 10/10/14 | letter mailed 10/6/14; notice published in newspapers on 10/10/14 | N/A              |
| Put a comment section on the transition plan website for stakeholders to submit comments electronically | DPHHS places a comment section on the website that can be collected and analyzed; works on text for the comment section.   | 08/31/14            | 10/08/14   | 10/08/14  | N/A              |
| Public comment period for 30 days   |  | 10/10/14            | due 11/10/2014   | 11/10/14  | N/A              |
| Review public comments  | DPHHS develops responses to the public comments and post on the website. Updates provided to CMS as needed.  | 11/11/14            | 12/03/14   | 12/03/14  | N/A              |
| Submit Final Transition Plan to CMS   |  |                     | 12/12/14   | 12/12/14  | N/A              |

CMS=Centers for Medicare & Medicaid

DPHHS=Department of Public Health & Human Services

HCBS=Home & Community Based Services

To continue to receive federal Medicaid funds for HCBS waiver services, Montana must comply with the “settings” requirements made effective by CMS regulations on 3/17/2014. CMS has granted a five-year period in which to come into compliance with these regulations, which is 3/17/2019. This draft document is Montana’s plan of how it will come into compliance.

## State of Montana Home and Community Based Services Settings Transition Plan

### Section 2: Assessment

| Action Item  | Description   | Proposed Start Date | Proposed End Date            | Milestone Status   | Remedial Actions |
|--|---|---------------------|------------------------------|--|------------------|
| Assessment of settings   | DPHHS conducts a preliminary assessment of the existing HCB services for compliance with HCBS characteristics, and assessment submitted with Transition Plan. | 06/17/14            | 12/12/14                     | 12/12/14   | N/A              |
| Draft PSA tool   | DPHHS drafts a PSA tool to compile baseline information on individual HCBS settings compliance. Updates provided to CMS as needed.                            | 01/12/15            | 04/30/15                     | 04/30/15   | N/A              |
| Draft validation tool for provider assessment                                  | DPHHS drafts a tool to validate the results of the provider assessment, includes onsite assessment and member survey information.                             | 05/01/15            | 08/03/15                     | 08/03/15   | N/A              |
| Draft member survey  | DPHHS drafts a member experience survey to compile information on their satisfaction with HCBS setting. Updates provided to CMS as needed.                    | 01/12/15            | 04/30/15                     | 04/30/15   | N/A              |
| Public comment for 30 days on provider self assessment tools and member survey | DPHHS provides opportunity for public comment in order to get feedback and refine assessment tool and member survey.  | 05/01/15            | 06/01/15                     | newspaper notice published 4/24/15; public meeting 5/11/15 | N/A              |
| Finalize provider self assessment tools and member survey                      | DPHHS makes changes as appropriate based on comment and feedback on validation and assessment tools and member survey.  | 06/01/15            | 07/01/15                     | 07/01/15   | N/A              |
| Send letter to providers with instructions on self-assessment tool and survey  | DPHHS sends letter to providers describing the self assessment tool with the website to access the tool online.   | 07/01/15            | 07/15/15                     | 07/07/15   | N/A              |
| Send letter to members with instructions on completing survey                  | DPHHS mails letter and survey to members.   | 07/01/15            | 07/15/15                     | 07/07/15 through 07/12/15                                  | N/A              |
| Implementation of Provider self assessment current and prospective providers   | Providers complete self assessment tool to compile baseline information on individual HCBS settings compliance.   | 07/15/15            | 08/21/15 - Provider due date | 08/21/15   | N/A              |
| Monitor receipt of PSAs and trouble shoot problems                             | DPHHS program staff review HCBS email folder daily for messages. Follow up is conducted with providers who do not submit.                                     | 07/13/15            | 08/31/15                     | 08/21/15   | N/A              |
| Extended PSA deadline  | DPHHS staff make calls to providers who have not submitted the PSA by due date.   | 08/14/15            | 08/21/15                     | 08/21/15   | N/A              |
| Implementation of member survey  | Members complete member survey.   | 07/15/15            | 08/31/15 - Member due date   | 08/31/15   | N/A              |

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| Action Item   | Description   | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|---|---|---------------------|-------------------|------------------|------------------|
| SLTC Division Administrator meets with Quality Assurance Division Administrator to discuss Validation Tool, onsite evaluators, and policy | Planning meeting: Licensure Bureau Chief creates the validation tool questions from the tool developed from the PSA survey.   | 07/27/15            | 09/25/15          | 09/25/15         | N/A              |
| PSA data evaluated  | PSA data are run and duplicates removed. Draft matrix for determining onsite validation is discussed.   | 08/31/15            | 09/01/15          | 09/01/15         | N/A              |
| Piloting of Validation tool   | DPHHS staff pilot draft validation tool in the field with different types of HCBS settings to include a group home, an assisted living facility (ALF) categories A and C (secure setting).  | 09/14/15            | 09/21/15          | 09/21/15         | N/A              |
| Validation tool revised   | Feedback from piloting used to update and revise prompts and intent statements in validation tool.  | 09/22/15            | 10/16/15          | 10/16/15         | N/A              |
| Public comment for 30 days on validation process  | DPHHS provides opportunity for public comment to get feedback and refine validation tool.   | 10/25/15            | 11/25/15          | 11/25/15         | N/A              |
| Finalize validation tool  | DPHHS makes changes as appropriate based on comment and feedback on validation tool.  | 11/26/15            | 12/30/15          | 12/30/15         | N/A              |
| Onsite sample selection   | <p>DPHHS analyzes returned provider self-assessment surveys and classifies them according to overall compliance. All HCBS settings are placed into a "Site Visit Matrix." The categories comprising this matrix are: "PSA non-responders" (33 settings); "Settings that are 69% or less compliant" (7 settings); "Settings that are 70-79% compliant" (24 settings); "Settings that are 80-89% compliant" (144 settings); "Settings that are 90-100% compliant" (244 settings); and "Settings that serve children under the age of 18 only" (29 settings).</p> <p>According to these matrix results: 100% of settings in the "PSA Non responders" (33 settings) category receive validation visits. 100% of settings in the "69% or less" (7 settings) category receive validation visits. A random sample comprising 25% of settings in the "70-79%" (6 settings) category receive a validation visit. A random sample comprising 15% of the settings in the "80-89%" (22 settings) category receive a validation visit; and a random sample comprising 10% of the settings in the "90-100%" (24 settings) and "children only" (3 settings) categories receive a validation visit.</p> | 09/15/15            | 11/30/15          | 11/30/15         | N/A              |
| Analysis of PSA   | For any setting not selected for an onsite validation, DPHHS reviews the setting's PSA to determine areas of noncompliance with the settings regulations. DPHHS sends a letter to each setting requesting a remediation plan with timelines.  | 11/01/15            | 01/09/17          |                  |                  |

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### Section 2: Assessment

| Action Item   | Description   | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|---|---|---------------------|-------------------|------------------|------------------|
| Hire state onsite validator(s)  | DPHHS hires modified FTE staff as the onsite validator(s) who will be housed in the agency.   | 12/01/15            | 06/06/16          | <u>06/06/16</u>  | N/A              |
| Train state onsite validator(s)   | DPHHS conducts validator(s) training.   | 06/06/16            | 09/01/16          |                  |                  |
| Conduct on site reviews to validate assessments   | DPHHS schedules on site reviews of providers to validate compliance.  | 09/01/16            | 03/30/17          |                  |                  |
| Distribute results on DPHHS's onsite review of validation, provider self-assessments and member surveys | DPHHS completes an aggregate report with statewide information and will post it on the HCBS website. Updates provided to CMS as needed. | 05/01/17            | 05/31/17          |                  |                  |

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HCBS=Home & Community Based Services

PSA=Provider Self Assessment

SLTC=Senior and Long Term Care

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## State of Montana Home and Community Based Services Settings Transition Plan

### Section 3: Member Transition Plan

| Action Item   | Description   | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|---|---|---------------------|-------------------|------------------|------------------|
| Identify members who are receiving services from provider/setting that does not meet HCBS setting criteria or those settings that choose to no longer participate in Medicaid program   | Based on PSA, site validation, heightened scrutiny and remediation plans, DPHHS determines settings that are either unable to become compliant with settings requirements or who choose not to become compliant and identify members receiving services via those settings.   | 01/10/17            | 02/01/17          |                  |                  |
| Notify member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCBS settings requirements and that a transition plan must be developed | DPHHS mails letters to responsible parties and support staff to inform them that the member's current residence is among those that are unable or choosing not to become compliant with HCBS settings requirements and specify that a team will work with impacted members to develop a person centered transition plan to a compliant HCBS setting.  | 01/10/17            | 01/01/18          |                  |                  |
| Develop member transition plan  | The support team, including the member, guardian, case manager, current residential staff, and others at the request of the member, develop a person centered transition plan and timeline for transition, including a list of alternative settings that meet HCB settings criteria. Plan may include visiting compliant settings so the member may make a selection of placement. A copy of the final transition plan is provided to the member during a face to face meeting with the support team members. | 01/15/17            | 01/01/18          |                  |                  |
| Meet with current providers of the setting from which members will be transitioning on transition plan implementation and coordination  | Discuss the transition plan, <del>the and</del> role that the provider will play, and areas that they can assist in implementing the transition plan.   | 01/15/17            | 01/01/18          |                  |                  |
| Members are provided information on available settings that meet their person centered plan requirements to make informed choices of alternate settings that are compliant with HCBS requirements                               | The support teams ensure members have information about which settings are compliant and how to access services and supports (person centered planning). This is accomplished through ongoing meetings with the member and their support team. Site visits may be part of decision making and choice of new setting.  | 02/01/17            | 02/01/18          |                  |                  |
| Support team work with members and newly selected setting support staff to assure that critical services/supports are in place in advance of the individual's transition  | Support team have regularly scheduled meetings to discuss the progress and needs for each transition. Team coordinates with new setting staff to meet the needs for each individual being transitioned to a new setting.  | 02/15/17            | 09/30/18          |                  |                  |
| Members are transitioned to HCBS compliant settings and services of their choosing in accordance with their person centered plan  | Support teams identify the timeframe for transition of each member to appropriate settings or services in accordance with member approved transition plan. Revised timelines are developed with member involvement if transitions cannot occur as planned.  | 02/15/17            | 11/01/18          |                  |                  |
| Members are given information and provided support to make informed choices of alternate settings that are compliant  | DPHHS works with case managers, advocacy groups, and transition teams to ensure members have information about which settings are compliant and how to access services and support (person centered planning). Ongoing meetings with the Member and their transition team will occur.   | 05/01/17            | 11/01/18          |                  |                  |

**State of Montana Home and Community Based Services Settings Transition Plan**

**Section 3: Member Transition Plan**

| Action Item   | Description   | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|---|---|---------------------|-------------------|------------------|------------------|
| DPHHS works with members and supports to assure that critical services/supports are in place in advance of the individuals transition | DPHHS holds regularly scheduled meetings to discuss the progress and needs of transition for each individual. | 02/15/17            | 11/01/18          |                  |                  |
| Members are transitioned to compliant settings and services of their choosing   | Transition teams identify the timeframe for transition to appropriate settings or services.                   | 03/15/17            | 11/01/18          |                  |                  |
| Members transitioned to compliant settings complete   | All transition plans for members completed  | 05/01/17            | 12/31/18          |                  |                  |

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HCB=Home & Community Based

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## ***State of Montana Home and Community Based Services Settings Transition Plan***

### Section 4-A: HCBS Applicable Administrative Rules of Montana (ARMs), Policies, and Manuals

| <b>All HCBS Waivers and 1915(i) State Plan, Licensed Services</b>  | <b>ARMs</b>  | <b>Waiver Number</b> |
|--|--|----------------------|
| Adult Foster Care  | 37.34.929 and 37.100.101 through 37.100.175  | 0208, 0455, 0148     |
| Mental Health Group Home   | 37.106.1938  | 0455                 |
| Assisted Living Facilities (adult residential, residential habilitation)   | 37.34.930, 37.40.1435 and 37.106.2801 through 37.106.2898  | 0208, 0455, 0148     |
| Supported Living   | 37.34.712 and 37.34.713 and 37.40.1438   | 0208, 0148           |
| Retirement Homes (Retirement Services in 0208 include group home, community-based residential, or day activity settings) | Building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence. 37.34.978 and 37.106.2501 through 37.106.2530 | 0208, 0455           |
| Pre-vocational   | 37.34.947, 37.34.950, 37.40.1448, and 37.90.432  | 0208, 0455, 0148     |
| Post-acute rehabilitation  | 37.40.1446   | 0148                 |
| Day Habilitation and Day Supports and Activities   | 37.34.938 and 37.40.1448   | 0208, 0148           |
| Adult Day Care   | 37.34.974 and 37.40.1445, and 37.106.2601 through 37.106.2621  | 0208, 0455, 0148     |
| Minimum Standards for all Health Care Facilities   | 37.106.301 through 37.106.331  | 0208, 0455, 0148     |
| Therapeutic Group Homes  | Children’s Mental Health Bureau Medicaid Services Provider Manual 37.87.1011, 37.87.1013, 37.97.903, 37.97.905 through 37.97.907, 37.87.1313 through 37.87.1315  | 1915(i) State Plan   |
| Group Homes for Individuals with Intellectual Disabilities   | 37.34.621 and 37.34.706, and 37.100.301 through 37.100.340,  | 0208                 |
| Group Homes for Individuals with Physical Disabilities   | 37.100.401 through 37.100.440  | 0148                 |
| Residential Rehabilitation (e.g., group homes, assisted living facilities, foster care)                                  | 37.34.972 and 37.100.101 through 37.100.175, 37.100.301 through 37.100.340, 37.100.401 through 37.100.440, 37.106.1938, and 37.106.2801 through 37.106.2898  | 0208, 0455, 0148     |

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### Section 4-A: HCBS Applicable Administrative Rules of Montana (ARMs), Policies, and Manuals

| <b>All HCBS Waivers and 1915(i) State Plan, Licensed Services</b>                                  | <b>ARMs</b>   | <b>Waiver Number</b> |
|--|---|----------------------|
| 0208 Comprehensive Home and Community Based Waiver for Individuals with Developmental Disabilities | 37.34.109, 37.34.701, 37.34.901 through 37.34.989   | 0208                 |
|  | 37.34.1101 through 37.34.1119 which govern the plan of care   |                      |
|  | 37.34.1401 through 37.34.1428 which govern positive behavior support  |                      |
|  | 37.34.1501 through 37.34.1513 which govern incident reporting and handling  |                      |
| 0667 Children's Autism Waiver  | 37.34.1901 through 37.34.1965   | 0667                 |
|  | 37.34.1101 through 37.34.1119 which govern the plan of care   |                      |
|  | 37.34.1401 through 37.34.1428 which govern positive behavior support  |                      |
|  | 37.34.1501 through 37.34.1513 which govern incident reporting and handling  |                      |
| 0455 Home and Community Based Waiver Program for Adults with Severe Disabling Mental Illness       | 37.90.41 through 37.40.461 govern 0455 Home and Community Based Services  | 0455                 |
| 0148 Montana Big Sky   | 37.40.1401 through 37.40.1488 govern 0148 Home and Community-Based Services   | 0148                 |
| 1915(i) State Plan   | 37.87.1313 through 37.87.1315 govern the 1915(i) HCB Services State Plan Program for Youth with Serious Emotional Disturbance | 1915(i) State Plan   |

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|---|--|--|--|
| 1 | <b>State of Montana Home and Community Based Services Settings Transition Plan</b> |  |  |
| 2 | Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations    |  |  |
| 3 | State Settings/Services  | State Standards (State law, 1915c Waivers, State Administrative Rules)<br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))  |
| 4 | Residential Habilitation   | 37.34.972  | DDP: 37.34.972 aligns/complies with the regulation   |
| 5 | Supported Living   | 37.34.712 and 37.34.713 and 37.40.1438   | DDP: 37.34.712 aligns/complies with the regulation and 37.34.713 is not applicable in that it describes safety requirements<br>SLTC: 37.40.1438 is silent and will need to be amended to meet this regulation. |

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| 1 | <b>State of Montana Home and Community Based Services Settings Transition Plan</b> |  |  |
| 2 | Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations    |  |  |
| 3 | State Settings/Services  | State Standards (State law, 1915c Waivers, State Administrative Rules)<br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))                |
| 6 | Pre-Vocational, Vocational, including Group Employment                             | 37.34.947, 37.34.950, 37.34.980 through 37.34.986, 37.40.1448, and 37.90.432   | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 align/comply with the regulation<br>SLTC: 37.40.1448 is in compliance with 42 C.F.R § 441.301(c)(4)(i)  |
| 7 | Adult Day Care   | 37.34.974, 37.34.1101 through 37.34.1119 and SLTC/AMDD: 37.40.1445   | DDP: 37.34.974 is silent and needs to be amended to explicitly state this regulation.<br>SLTC 37.40.1445 is silent and will be amended to include this regulation. |

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| 2 | <b>Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations</b> |   |   |
| 3 | <b>State Settings/Services</b>   | <b>State Standards (State law, 1915c Waivers, State Administrative Rules)</b><br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | <b>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))</b>  |
| 8 | Assisted Care Living Facilities  | DDP: 37.34.930, SLTCD: 37.40.1435 and AMDD: 37.90.412 and 37.90.428   | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation<br>SLTCD: 37.40.1435 is silent and will need to be amended to align/comply with this requirement.<br>AMDD: 37.90.428 is silent and will need to amend to align/comply to explicitly state this regulation. |
| 9 | Adult Foster Care  | DDP: 37.34.929, 37.34.1101 through 37.34.1119<br>AMDD: 37.90.428  | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation . AMDD: 37.90.428 is silent and will need to amend to align/comply to explicitly state this regulation.  |

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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b>                                       |   |  |
| 2  | <b>Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations</b>                                   |   |  |
| 3  | <b>State Settings/Services</b>   | <b>State Standards (State law, 1915c Waivers, State Administrative Rules)</b><br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | <b>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))</b> |
| 10 | Mental Health Group Home   | AMDD: 37.88.901   | AMDD: 37.88.901 aligns/complies with the regulation  |
| 11 | Retirement Homes (Retirement Services in 0208 include group home, community-based residential, or day activity settings) | DDP: 37.34.978 Building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.   | DDP: 37.34.978 aligns/complies with the regulation   |
| 12 | Post-acute rehabilitation  | SLTC: 37.40.1446  | SLTC: 37.40.1446 is in compliance with 42 C.F.R § 441.301(c)(4)(i) t.  |
| 13 | Day Habilitation and Day Supports and Activities   | DDP: 37.34.938, 37.34.1101 through 37.34.1119and SLTC: 37.40.1448   | DDP: 37.34.938 aligns/complies with the regulation<br>SLTC: 37.40.1448 is in compliance with 42 C.F.R § 441.301(c)(4)(i).                                  |

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| 2  | <b>Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations</b> |  |   |
| 3  | <b>State Settings/Services</b>   | <b>State Standards (State law, 1915c Waivers, State Administrative Rules)<br/><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document)</b> | <b>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))</b>  |
| 14 | Therapeutic Group Homes  | Children’s Mental Health Bureau Medicaid Services Provider Manual (CMHB Manual)<br>Administrative Rules 37.87.1011, 37.87.1013, 37.87.1313 through 37.87.1315  | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. |
| 15 | Group Homes for Individuals with Intellectual Disabilities                             | DDP: 37.34.621, 37.34.706 and 37.34.1101 through 37.34.1119  | 37.34.62 and 37.34.70 6align/comply with the regulation   |

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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b>                 |  |  |
| 2  | <b>Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations</b>             |  |  |
| 3  | <b>State Settings/Services</b>   | <b>State Standards (State law, 1915c Waivers, State Administrative Rules)<br/><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document)</b>               | <b>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))</b>   |
| 16 | 0208 Comprehensive Home and Community Based Waiver for Individuals with Developmental Disabilities | DDP: 37.34.901 through 37.34.989<br><br>DDP: 37.34.1101 through 37.34.1119 which govern the plan of care<br><br>DDP: 37.34.1401 through 37.34.1422 which govern positive behavior support<br><br>DDP: 37.34.1501 which governs incident reporting and handling | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above<br>37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are silent and 37.34.1401 needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation |

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| 2  | <b>Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations</b>       |  |   |
| 3  | <b>State Settings/Services</b>   | <b>State Standards (State law, 1915c Waivers, State Administrative Rules)<br/><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document)</b> | <b>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))</b>  |
| 17 | 0667 Children's Autism Waiver  | 37.34.1901 through 37.34.1965<br><br>37.34.1101 through 37.34.1119 which govern the plan of care<br><br>37.34.1401 through 37.34.1422 which govern positive behavior support<br><br><del>37.34.1501 which governs incident reporting and</del>   | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. |
| 18 | 0455 Home and Community Based Waiver Program for Adults with Severe Disabling Mental Illness | AMDD: 37.90.401 through 37.90.461 govern 0455 Home and Community Based Services  | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  |

|    | A  | B  | C   |
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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b>     |  |   |
| 2  | <b>Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations</b> |  |   |
| 3  | <b>State Settings/Services</b>   | <b>State Standards (State law, 1915c Waivers, State Administrative Rules)<br/><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document)</b> | <b>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))</b>  |
| 19 | 0148 Montana Big Sky Elderly and Physically Disabled                                   | SLTC: 37.40.1401 through 37.40.1488 govern 0148 Home and Community-Based Services  | SLTC: 37.40.1401 -1408 , 37.40-1435 -37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br>SLTC: 37.40-1415 - 1421 , 37.40.1445 -1448 are silent and will need to be amended to comply.<br>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable or are compliant with these requirements. |

|    | A  | B  | C   |
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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b> |  |   |
| 2  | Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations    |  |   |
| 3  | State Settings/Services  | State Standards (State law, 1915c Waivers, State Administrative Rules)<br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))   |
| 20 | 1915(i) State Plan   | 37.87.1313 through 37.87.1315, 1915(i) Home and Community Based Services State Plan Provider Policy Manual (Effective October 1, 2015)   | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "All settings must be integrated in and support full access to the greater community". |

|    | A   | B   | C  |
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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b>  |   |  |
| 2  | Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations   |   |  |
| 3  | State Settings/Services   | State Standards (State law, 1915c Waivers, State Administrative Rules)<br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document)  | The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i))  |
| 21 | <u>Licensing requirements</u>   | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340<br>37.100.401 through 37.100.440 are compliant.<br>CMHB: 37.97.903, 37.97.905 through 37.97.907<br>AMDD: 37.100.101 through 37.100.175; are compliant.<br>SLTC: 37.106.2501 through 37.106.2530, 37.106.1938, and 37.106.2801 through 37.106.2898, 37.106.2601 through 37.106.2621 are compliant . | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 is in compliance with 42 C.F.R § 441.301(c)(4)(i)<br>CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant<br>AMDD: 37.100.101 through 37.100.175; 37.106.2801 through 37.106.2898 are compliant.<br>37.100.401 through 37.100.440 are compliant. |
| 22 | DDP=Developmental Disabilities Program, 0208 Comprehensive Home and Community Based Waiver for Individuals with Developmental Disabilities and 0667 Children's Autism Waivers | Title 37, Chapter 34, Subchapter 9<br>Title 37, Chapter 34, Subchapter 19   |  |

|    | A  | B  | C   |
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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b>   |  |   |
| 2  | Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations  |  |   |
| 3  | State Settings/Services  | State Standards (State law, 1915c Waivers, State Administrative Rules)<br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)) |
| 23 | SLTC=Senior and Long Term Care Division<br>0148 Montana Big Sky Elderly and Physically Disabled  | Title 37, Chapter 40, Subchapter 14  |   |
| 24 | AMDD=Addictive & Mental Disorders Division, 0455 Home and Community Based Waiver Program for Adults with Severe Disabling Mental Illness | Title 37, Chapter 90, Subchapter 4   |   |
| 25 | CMHB=Children's Mental Health Bureau   |  |   |
| 26 | <b>ADMINISTRATIVE RULES HYPERLINKS</b>   |  |   |
| 27 | <a href="#">Title 37, Chapter 34</a>   |  |   |
| 28 | <a href="#">Title 37, Chapter 34, Subchapter 1</a>   |  |   |
| 29 | <a href="#">Title 37, Chapter 34, Subchapter 2</a>   |  |   |
| 30 | <a href="#">Title 37, Chapter 34, Subchapter 7</a>   |  |   |
| 31 | <a href="#">Title 37, Chapter 34, Subchapter 9</a>   |  |   |
| 32 | <a href="#">Title 37, Chapter 34, Subchapter 11</a>  |  |   |
| 33 | <a href="#">Title 37, Chapter 34, Subchapter 14</a>  |  |   |
| 34 | <a href="#">Title 37, Chapter 34, Subchapter 15</a>  |  |   |
| 35 | <a href="#">Title 37, Chapter 34, Subchapter 19</a>  |  |   |
| 36 | <a href="#">Title 37, Chapter 100, Subchapter 4</a>  |  |   |
| 37 | <a href="#">Title 37, Chapter 40, subchapter 14</a>  |  |   |

|    | A  | B  | C   |
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| 1  | <b>State of Montana Home and Community Based Services Settings Transition Plan</b> |  |   |
| 2  | Section 4-B: Administrative Rules of Montana Crosswalk with Federal Regulations    |  |   |
| 3  | State Settings/Services  | State Standards (State law, 1915c Waivers, State Administrative Rules)<br><a href="http://www.mtrules.org/">http://www.mtrules.org/</a> *(hyperlinks to all administrative rules and manuals are located at the bottom of this document) | The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)) |
| 38 | <a href="#">Title 37, Chapter 90, subchapter 4</a>                                 |  |   |
| 39 | <a href="#">Title 37, Chapter 106, subchapter 26</a>                               |  |   |
| 40 | <a href="#">Title 37, Chapter 106, subchapter 28</a>                               |  |   |
| 41 | <a href="#">Title 37, Chapter 106, subchapter 20</a>                               |  |   |
| 42 | <a href="#">Title 37, Chapter 106, subchapter 19</a>                               |  |   |
| 43 | <a href="#">Title 37, Chapter 87, subchapter 10</a>                                |  |   |
| 44 | <a href="#">Title 37, Chapter 87, Subchapter 13</a>                                |  |   |
| 45 | <a href="#">Title 37, Chapter 100, Subchapter 3</a>                                |  |   |
| 46 | <a href="#">Title 37, Chapter 100, subchapter 1</a>                                |  |   |
| 47 | <a href="#">Title 37, Chapter 97, Subchapter 9</a>                                 |  |   |
| 48 | HYPERLINKS TO MANUALS  |  |   |
| 49 | <a href="#">CMHB Medicaid Service Provider Manual</a>                              |  |   |
| 50 | <a href="#">1915(j) State Plan Service Provider Manual</a>                         |  |   |
| 51 | <a href="#">DDP Waiver 5 Freedom of Choice and Consent Form</a>                    |  |   |

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| 1 |   |  |  |  |
| 2 |   |  |  |  |
| 3 | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>   | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>  | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b> | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>   |
| 4 | DDP: 37.34.972 is silent and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation   | DDP: 37.34.972 is silent and needs to be amended to explicitly state this regulation   | DDP: 37.34.972 partially complies and needs to be amended to explicitly state this regulation  | DDP: 37.34.972 is silent; Waiver 5 Freedom of Choice and Consent Form aligns/complies with the regulation  |
| 5 | DDP: 37.34.712 and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation; 37.34.713 is not applicable in that it describes safety requirements SLTC: 37.40.1438 is partially compliant as it covers individual residences as well as group living and will need to be amended to comply. | DDP: 37.34.712 is silent and needs to be amended to explicitly state this regulation and 37.34.713 is not applicable in that it describes safety requirements SLTC 37.40.1438 is silent and will be amend to explicitly state the requirements of this regulation. | DDP: 37.34.712 aligns/complies with the regulation and 37.34.713 is not applicable in that it describes safety requirements SLTC: 37.40.1438 is compliant with 42 C.F.R § 441.301(c)(4)(iv).   | DDP: 37.34.712 and Waiver 5 Freedom of Choice and Consent Form align/comply with the regulation and 37.34.713 is not applicable in that it describes safety requirements SLTC ARM 37.40.1438 is compliant with this requirement. |

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| 3 | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>   | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>  | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b> | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>   |
| 6 | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation SLTC: 37.40.1448 is in compliance with this regulation.                        | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent and need to be amended to explicitly state this regulation SLTC: 37.40.1448 is in compliance with 42 C.F.R § 441.301(c)(4)(iii). | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent and need to be amended to explicitly state this regulation SLTC: 37.40.1448 is silent and needs amendment to specifically comply with this requirement.                      | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent; Waiver 5 Freedom of Choice and Consent Form meets the regulation SLTC: 37.40.1448 is not in compliance with 42 C.F.R § 441.301(c)(4)(v) and needs to be amended to include member choice of setting and who provides services and supports. |
| 7 | DDP: 37.34.974 is not applicable as it refers to respite services and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation.<br>AMDD/SLTCD 37.40.1445 private unit in a residential setting is not applicable. | DDP: 37.34.974 is silent and needs to be amended to explicitly state this regulation AMDD/SLTC: 37.40.1445 needs to be amended to reflect the language of 42 CFR 441.301c(4)(iii)                      | DDP: 37.34.974 is silent and needs to be amended to explicitly state this regulation AMDD/SLTC: 37.40.1445 is silent and needs to be amended to reflect the language of 42 CFR 441.301c(4)(iii)  | DDP: 37.34.972 is silent; Waiver 5 Freedom of Choice and Consent Form aligns/complies with the regulation AMDD/SLTC: 37.40.1445 The setting is determined based on person centered plan and chosen by the individual. The rule is not applicable.  |

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| 3 | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>  | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>  | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b>  | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>  |
| 8 | DDP: 37.34.930 is silent and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is in compliance with 42 C.F.R § 441.301(c)(4)(ii) AMDD: the member chooses the setting and this is documented in the plan of care. AMDD will amend ARM 37.90.428 to reflect compliance with 42 CFR 441.301(c)(4)(ii) | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is in compliance with 42 C.F.R § 441.301(c)(4)(ii) AMDD: 37.90.428 needs to be amended to explicitly state the language of 42 CFR 441.301c(4)(iii) | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is silent with 42 C.F.R § 441.301(c)(4)(iv) and will be amended to comply. AMDD this is silent under 37.90.428 the rule will need to be amended to explicitly state the language of 42 CFR 441.301c(4)(iv). | DDP: 37.34.930 is silent and Waiver 5 Freedom of Choice and Consent Form aligns/complies with the regulation SLTC: 37.40.1435 is silent with 42 C.F.R § 441.301(c)(4)(v) and will need to be amended. AMDD 37.90.428 is silent and need to be amended to explicitly state the language in 42 CFR 441.301c(4)(v) |
| 9 | DDP: 37.34.929 is silent and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation AMDD: the member chooses the setting and this is documented in the plan of care. AMDD will amend ARM 37.90.428 to reflect compliance with regulation   | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation AMDD: 37.90.428 needs to be amended to explicitly state the language of 42 CFR 441.301c(4)(iii)   | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation AMDD this is silent under 37.90.428 the rule will need to be amended to explicitly state the language of 42 CFR 441.301c(4)(iv).   | DDP: 37.34.929 is silent and Waiver 5 Freedom of Choice and Consent Form align/comply with the regulation AMDD 37.90.428 is silent and need to be amended to explicitly state the language in 42 CFR 441.301c(4)(v)   |

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| 3  | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>                                      | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>           | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b> | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>             |
| 10 | AMDD: 37.88.901 aligns/complies with the regulation  | AMDD: 37.88.901 is silent and needs to be amended to explicitly state this regulation   | AMDD: 37.88.901 aligns/complies with the regulation  | AMDD: 37.88.901 aligns/complies with the regulation  |
| 11 | DDP: 37.34.978 aligns/complies with the regulation and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation  | DDP: 37.34.978 is silent and needs to be amended to explicitly state this regulation  | DDP: 37.34.978 aligns/complies with the regulation   | DDP: 37.34.978 and Waiver 5 Freedom of Choice and Consent Form aligns/complies with the regulation                                     |
| 12 | SLTC: 37.40.1446 is compliant with 42 C.F.R § 441.301(c)(4)(ii) members choice is required documentation on the plan of care.  | SLTC: 37.40.1446 is silent and will be amended to be in compliance with 42 C.F.R § 441.301(c)(4)(iii).  | SLTC: 42 C.F.R § 441.301(c)(4)(iv) is not applicable.  | SLTC: 37.40.1446 is in compliance with 42 C.F.R § 441.301(c)(4)(i).  |
| 13 | DDP: 37.34.938 is silent and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation. SLTC: 37.40.1435 is silent with 42 C.F.R § 441.301(c)(4)(ii) and will be amended to comply. | DDP: 37.34.938 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1448 is in compliance with 42 C.F.R § 441.301(c)(4)(iii) | DDP: 37.34.938 aligns/complies with the regulation SLTC: 37.40.1448 is in compliance with 42 C.F.R § 441.301(c)(4)(iv).  | DDP: 37.34.938 and Waiver 5 Freedom of Choice and Consent Form aligns/complies with the regulation . SLTC 37.40.1448 is in compliance. |

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| 1  |   |   |  |   |
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| 3  | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>               | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>   | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b> | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>  |
| 14 | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable.                      | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. |
| 15 | 37.34.621 and 37.34.706 are silent and Waiver 5 Freedom of Choice and Consent Form partially complies and needs to be amended to explicitly state this regulation   | 37.34.621 and 37.34.706 are silent and need to be amended to explicitly state this regulation   | 37.34.621 and 37.34.706 align/comply with the regulation   | 37.34.621, 37.34.706, and Waiver 5 Freedom of Choice and Consent Form align/comply with the regulation  |

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| 1  |   |   |  |   |
| 2  |   |   |  |   |
| 3  | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>   | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>   | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b>   | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>  |
| 16 | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.918 Waiver 5 Freedom of Choice and Consent Form partially complies with the regulation and needs to be amended to explicitly state this regulation<br>37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are silent and 37.34.1401 needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are silent and 37.34.1401 needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1402 through 37.34.1422 are silent and 37.34.1401 partially complies and needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply<br>37.34.1401 through 37.34.1422 are silent<br>37.34.1501 is silent<br>37.34.918 Waiver 5 Freedom of Choice and Consent Form aligns/complies with the regulation and applies to all HCBS services |

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| 1  |   |   |  |   |
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| 3  | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>                         | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>   | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b> | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>  |
| 17 | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation.            | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. |
| 18 | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.   | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  |

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| 3  | <p><b>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 (42 C.F.R § 441.301(c)(4)(ii))</b></p>   | <p><b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b></p>  | <p><b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b></p>  | <p><b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b></p>   |
| 19 | <p>SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br/>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br/>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable or are compliant with these requirements.</p> | <p>SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br/>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br/>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable.</p> | <p>SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br/>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br/>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable or are compliant with these requirements.</p> | <p>SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br/>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br/>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable.</p> |

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| 3  | <b>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 (42 C.F.R § 441.301(c)(4)(ii))</b>   | <b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b>   | <b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b>  | <b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b>  |
| 20 | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state " setting must be selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting " | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "each setting must ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint." | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "the provider must demonstrate that the setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.." | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "the setting must facilitate individual choice regarding services and supports, and who provides them" |

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| 3  | <p><b>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 (42 C.F.R § 441.301(c)(4)(ii))</b></p>  | <p><b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</b></p>  | <p><b>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</b></p>  | <p><b>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</b></p>   |
| 21 | <p>DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 are in compliance with 42 C.F.R § 441.301(c)(4)(ii)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD: 37.100.101 through 37.100.175; 37.106.2801 through 37.106.2898 are compliant. 37.100.401 through 37.100.440 are compliant.</p> | <p>DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 are in compliance with 42 C.F.R § 441.301(c)(4)(iii)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD 37.106.2828 is compliant. 37.100.401 through 37.100.440 are compliant.</p> | <p>DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 are in compliance with 42 C.F.R § 441.301(c)(4)(iv)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD 37.106.2831 is compliant. 37.100.401 through 37.100.440 are compliant.</p> | <p>DDP: 37.100.101 through 37.100.175, 37.100.301 through 37.100.340, and Waiver 5 Freedom of Choice and Consent Form align/comply with the regulation SLTC 37.106.2801 are in compliance with 42 C.F.R § 441.301(c)(4)(v)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD 37.106.2831 is compliant. 37.100.401 through 37.100.440 are compliant.</p> |
| 22 |   |   |  | <p>Waiver 5 Freedom of Choice and Consent Form</p>  |

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| 3  | 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 (42 C.F.R § 441.301(c)(4)(ii)) | Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii)) | Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv)) | Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v)) |
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| 1  | [Redacted]  |   |  |  |
| 2  | [Redacted]  |   |  |  |
| 3  | <p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting (42 C.F.R § 441.301(c)(4)(ii))</p> | <p>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (42 C.F.R § 441.301(c)(4)(iii))</p> | <p>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (42 C.F.R § 441.301(c)(4)(iv))</p> | <p>Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))</p> |
| 38 | [Redacted]  |   |  |  |
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| 3 | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b> | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>  | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 4 | DDP: 37.34.972 is silent and needs to be amended to explicitly state this regulation   | DDP: 37.34.972 is silent and needs to be amended to explicitly state this regulation   | DDP: 37.34.972 is silent and needs to be amended to explicitly state this regulation  | DDP: 37.34.972 is silent and needs to be amended to explicitly state this regulation  |
| 5 | DDP: 37.34.712 and 37.34.713 align/comply with the regulation<br>SLTC ARM 37.40.1438 is in compliance with this requirement.   | DDP: 37.34.712 is silent and needs to be amended to explicitly state this regulation and 37.34.713 is not applicable in that it describes safety requirements<br>SLTC ARM 37.40.1438 is silent and will be amended to meet this requirement for group living situations. | DDP: 37.34.712 is silent and needs to be amended to explicitly state this regulation and 37.34.713 is not applicable in that it describes safety requirements<br>SLTC: 37.40.1438 is silent in regards to these requirements and will need amendment to comply with the requirements to ensure all individuals have freedom, support and control over their own schedules, activities and access to food. | DDP: 37.34.712 is silent and needs to be amended to explicitly state this regulation and 37.34.713 is not applicable. SLTC: 37.40.1438 is silent and will be amended to explicitly state this requirement regarding visitors in this setting. |

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| 3 | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b> | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>       | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>  | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>  |
| 6 | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are not applicable 37.40.1448 is not applicable.  | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are not applicable 37.40.1448 is not applicable. | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent and need to be amended to explicitly state this regulation<br>SLTC 37.40.1448 is silent and will be amended to include this requirement. | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are not applicable SLTC 37.40.1448 is silent and will be amended to explicitly state this requirement regarding visitors in this setting. |
| 7 | DDP: 37.34.974 is not applicable.<br>AMDD/SLTC: 37.40.1445 not applicable.   | DDP: 37.34.974 is not applicable SLTC/<br>AMDD: Not applicable  | DDP: 37.34.974 is not applicable   | DDP: 37.34.974 is not applicable<br>AMDD: Not applicable   |

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| 3 | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>   | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>   | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 8 | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is silent and will be amended to be compliant with 42 C.F.R § 441.301(c)(4)(vi)(A). AMDD: 37.90.428 is silent and will be amended to explicitly state the federal regulation | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is silent with 42 C.F.R § 441.301(c)(4)(vi)(B) and will need to be amended. AMDD: 37.90.428 is compliant with 24 CFR 441.301c(4)(vi)(B) | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is not in compliance with 42 C.F.R § 441.301(c)(4)(vi)(C) and will need to be amended to include additional language as it relates to access to food and schedules. AMDD: 37.90.428 is silent and will need to be amended to explicitly state the language of 42 CFR 441.301c(4)(vi)C | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation SLTC: 37.40.1435 is in compliance with 42 C.F.R § 441.301(c)(4)(vi)(D) AMDD: 37.90.428 is silent and will be amended to explicitly state the language in 41 CFR 441.301c(4)(vi)(D) |
| 9 | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation AMDD: 37.90.428 is silent and will be amended to explicitly state the federal regulation  | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation AMDD: 37.90.428 is compliant with 24 CFR 441.301c(4)(vi)(B)  | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation AMDD: 37.90.428 is silent and will need to be amended to explicitly state the language of 42 CFR 441.301c(4)(vi)C  | DDP: 37.34.929 is silent and needs to be amended to explicitly state this regulation AMDD: 37.90.428 is silent and will need to be amended to explicitly state the language of 42 CFR 441.301c(4)(vi)C  |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b> | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b> | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b> | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b> |
| 10 | AMDD: 37.88.901 aligns/complies with the regulation  | AMDD: 37.88.901 aligns/complies with the regulation   | AMDD: 37.88.901 aligns/complies with the regulation   | AMDD: 37.88.901 is silent and needs to be amended to explicitly state this regulation.                        |
| 11 | DDP: 37.34.978 is not applicable and depends on the setting in which the service is provided   | DDP: 37.34.978 is not applicable and depends on the setting in which the service is provided          | DDP: 37.34.978 aligns/complies with the regulation  | DDP: 37.34.978 is silent and needs to be amended to explicitly state this regulation                          |
| 12 | SLTC: 42 C.F.R § 441.301(c)(4)(vi)(A) is not applicable.   | SLTC: 42 C.F.R § 441.301(c)(4)(vi)(B) is not applicable.  | SLTC: 42 C.F.R § 441.301(c)(4)(vi)(C) is not applicable.  | SLTC: 42 C.F.R § 441.301(c)(4)(vi)(D) is not applicable.  |
| 13 | DDP: 37.34.938 is not applicable SLTC 37.40.1448 is not applicable.  | DDP: 37.34.938 is not applicable SLTC: 37.40.1448 not applicable.                                     | DDP: 37.34.938 aligns/complies with the regulation SLTC: 37.40.1448 aligns/complies with the regulation   | DDP: 37.34.938 is not applicable SLTC: 37.40.1448 is not applicable   |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>                  | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>   | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 14 | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. |
| 15 | 37.34.621 and 37.34.706 are silent and need to be amended to explicitly state this regulation   | 37.34.621 and 37.34.706 are silent and need to be amended to meet this regulation   | 37.34.621 and 37.34.706 partially compliant and need to be amended to meet this regulation  | 37.34.621 and 37.34.706 are silent and need to be amended to meet this regulation   |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>   | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>   | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 16 | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are not applicable<br>37.34.1501 is not applicable | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are silent and 37.34.1401 needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are silent and 37.34.1401 needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are silent and 37.34.1401 needs to be amended to explicitly state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>                            | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>   | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 17 | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. |
| 18 | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation   | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation   | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>   | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>  | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>  | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>  |
| 19 | SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable. | SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable. | SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable. | SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).<br>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.<br>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable. |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>   | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>   | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 20 | 37.87.1313 and 37.87.1315 are compliant, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "The unit or dwelling must be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services" | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "Each individual has privacy in their sleeping or living unit" | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "the setting must provide Individuals the freedom and support to control their own schedules and activities, and have access to food at any time." | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "the setting must allow for Individuals to have visitors of their choosing at any time." |

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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b>  | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b>   | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b>   | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b>   |
| 21 | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation Building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence; 37.106.2501 through 37.106.2530. These rules are in compliance with (42 C.F.R § 441.301(c)(4)(vi)(A).CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD/SLTCD The rules governing Assisted Living Facilities 37.106.2801 through 37.106.2898 are compliant. 37.100.401 through 37.100.440 are compliant. | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 is compliant with 42 C.F.R § 441.301(c)(4)(vi)(B)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD 37.106.2835 is compliant. 37.100.401 through 37.100.440 are compliant. | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 is in compliance with 42 C.F.R § 441.301(c)(4)(vi)(C)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD 37.106.2860 is compliant. 37.100.401 through 37.100.440 are compliant. | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 is in compliance with 42 C.F.R § 441.301(c)(4)(vi)(D) CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant AMDD The rules are compliant. 37.100.401 through 37.100.440 are compliant. |
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| 3  | <b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A))</b> | <b>Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))</b> | <b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))</b> | <b>Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))</b> |
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| 3  | The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services (42 C.F.R § 441.301(c)(4)(vi)(A)) | Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B)) | Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C)) | Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D)) |
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| 3 | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>                    | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>         |
| 4 | DDP: 37.34.972 is silent and needs to be amended to explicitly state this regulation                                | DDP: 37.34.972 is silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation  |
| 5 | DDP: 37.34.712 and 37.34.713 align/comply with the regulation<br>SLTC: 37.40.1438 is compliant with the regulation. | DDP: 37.34.712 and 37.34.713 are silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>SLTC: 37.40.1438 is compliant with 42 C.F.R § 441.301(c)(4)(vi)(F) . |

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| 3 | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>   | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>   |
| 6 | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent and need to be amended to explicitly state this regulation<br>SLTC 37.40.1448 is silent and will be amended include that the setting will be accessible. | DDP: 37.34.947, 37.34.950, and 37.34.980 through 37.34.986 are silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>SLTC: 37.40.1448 is in compliance with 42 C.F.R § 441.301(c)(4)(vi)(F)                 |
| 7 | DDP: 37.34.974 is not applicable<br>AMDD: Rule is not applicable.  | DDP: 37.34.974 is silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>SLTC/AMDD: 37.40.1445 Compliant based on the person centered plan requirement to be updated based on changes in individual's needs. |

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| 3 | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>   | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>   |
| 8 | DDP: 37.34.930 is silent and needs to be amended to explicitly state this regulation<br>SLTC: 37.40.1435 is compliant with 42 C.F.R § 441.301(c)(4)(vi)(E)<br>AMDD: 37.90.428 is silent and will be amended to explicitly state the regulation | DDP: 37.34.930 is silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>SLTC: 37.40.1435 is in compliance with 42 C.F.R § 441.301(c)(4)(vi)(F)<br>AMDD: 37.90.428 needs to be amended to be compliant with regulation |
| 9 | DDP: 37.34.929 is silent and needs to be amended to state this regulation<br>AMDD: 37.90.428 is silent and will be amended to explicitly state the regulation  | DDP: 37.34.929 is silent, 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>AMDD: 37.90.428 needs to be amended to be compliant with regulation  |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b> | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b> |
| 10 | AMDD: 37.88.901 aligns/complies with the regulation  | AMDD: 37.88.901 aligns/complies with the regulation   |
| 11 | DDP: 37.34.978 is not applicable and depends on the setting in which the service is provided     | DDP: 37.34.978 is silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation  |
| 12 | SLTC: 42 C.F.R § 441.301(c)(4)(vi)(E) is not applicable.   | SLTC: 42 C.F.R § 441.301(c)(4)(vi)(F) is not applicable.  |
| 13 | DDP: 37.34.938 is not applicable SLTC 37.40.1448 aligns/complies.                                | DDP: 37.34.938 is silent and 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation. SLTC 37.40.1448 aligns/complies.  |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>  | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b> |
| 14 | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable. | The CMHB manual, 37.87.1011, 37.87.1313, and 37.87.1315 are compliant/align with this regulation. 37.87.1013 and 37.87.1314 are rules that pertain to Medicaid reimbursement and therefore this regulation is not applicable.     |
| 15 | 37.34.621 and 37.34.706 are silent  | DDP: 37.34.621 and 37.34.706 are silent, 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation  |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>   | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>  |
| 16 | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1422 are not applicable<br>37.34.1501 is not applicable | 37.34.901 through 37.34.989 are either not applicable or were identified for specific services above 37.34.1101 through 37.34.1119 partially comply and 37.34.1114 needs to be amended to explicitly state this regulation<br>37.34.1401 through 37.34.1404 and 37.34.1418 through 37.34.1422 are silent, 37.34.1405 through 37.34.1412 partially comply and 37.34.1401 needs to be amended to state this regulation<br>37.34.1501 is silent and needs to be amended to explicitly state this regulation |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>  | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>       |
| 17 | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. | 0667 Children's Autism Waiver services are provided to children under the age of 8 who reside in a family home. A majority of services are delivered in the home. These private homes are presumed to align/comply with the regulation. |
| 18 | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  | 37.90.401 through 425, 37.90.431; 37.90.436 through 37.90.461 is non applicable. 37.90.428, 37.90.430, and 37.90.431 is silent and need to be amended to comply with regulation.  |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>  | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>   |
| 19 | <p>SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).</p> <p>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.</p> <p>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable.</p> | <p>SLTC: 37.40.1401 -1408 , 37.40-1435 - 37.40.1438 are not compliant and will need to be amended to be compliant with 42 C.F.R § 441.301(c)(4)(i).</p> <p>SLTC: 37.40-1415 - 1421 , 37.40.1445 - 1448 are silent and will need to be amended to comply.</p> <p>SLTC: 37.40.1423-37.40-1431 , 37.40.1439 , 37.40.1440- 37.40.1441 and 37.40-1449-1488 are not applicable.</p> |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>  | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>   |
| 20 | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "The setting must be physically accessible to the individual." | 37.87.1313 and 37.87.1315 are compliant/align with this regulation, 37.87.1314 pertains to Medicaid reimbursement to the provider so this regulation is not applicable to this rule. The 1915(i) Home and Community Based Services State Plan Provider Policy Manual is silent on this regulation and will need to be amended to state "any modifications to the setting that impact the physical accessibility of the setting to the individual must be supported by a specific assessed need and justified in the person-centered plan" |

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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b>   | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b>  |
| 21 | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 will need to be modified to be in compliance with 42 C.F.R § 441.301(c)(4)(vi)(E)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant<br>AMDD The rules are compliant. | DDP: 37.100.101 through 37.100.175 and 37.100.301 through 37.100.340 align/comply with the regulation SLTC 37.106.2801 are in compliance with 42 C.F.R § 441.301(c)(4)(vi)(F)CMHB: 37.97.903, 37.97.905, 37.97.907 are compliant<br>AMDD 37.106.2821 is compliant.<br>37.100.401 through 37.100.440 are compliant. |
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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b> | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b> |
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| 3  | <b>The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))</b> | <b>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. (42 C.F.R § 441.301(c)(4)(vi)(F))</b> |
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## State of Montana Home and Community Based Services Settings Transition Plan

### Section 4-C: Program Administration: Administrative Rules of Montana

| Action Item   | Description   | Proposed Start Date                       | Proposed End Date                         | Milestone Status | Remedial Actions |
|---|---|---|---|------------------|------------------|
| Identify ARMs for which HCBS regulations are applicable.                      | Appropriate staff from each DPHHS division (Children's Mental Health Bureau, Addictive and Mental Disorders Division, Developmental Disabilities, and Senior and Long Term Care) will identify ARMs for which HCBS regulations are applicable.                                | 01/01/15                                  | 09/18/15                                  | <u>9/18/2015</u> |                  |
| Submit Proposed Administrative Rules Form (PARF) to DPHHS OLA.                | Appropriate staff submits PARF to OLA to begin rulemaking process.  | 07/01/17                                  | 08/01/17                                  |                  |                  |
| Draft rule language to update ARMs.   | Appropriate staff from each DPHHS division (Children's Mental Health Bureau, and the Divisions of Addictive and Mental Disorders, Developmental Disabilities, and Senior and Long Term Care) will draft rule language to update ARMS to comply with HCBS federal regulations. | 08/01/17                                  | 12/01/17                                  |                  |                  |
| Finalize rule language to update ARMs.  | Rule language will be finalized within each division.   | 12/01/17                                  | 02/01/18                                  |                  |                  |
| Submit ARMs to OLA.   | Submit ARMs to OLA with necessary documentation (statement of reasonable necessity, fiscal impact statement, small business impact statement).  | 02/01/18                                  | 02/01/18                                  |                  |                  |
| Hold public hearing on proposed ARMs.   | Public hearing will be held on proposed ARM amendments (public hearing to take place 20 days after Montana Secretary of State's publication date).  | 05/10/18 (20 days after publication date) | 05/10/18 (20 days after publication date) |                  |                  |
| Public Comment on proposed ARMs.  | Each division will collect public comment on proposed ARMs.   | 04/20/18                                  | 05/20/18                                  |                  |                  |
| End of public comment period.   | End of public comment (28 days after Secretary of State's publication date).  | 05/20/18                                  | 05/20/18                                  |                  |                  |
| Respond to public comment and make any changes resulting from public comment. | Appropriate staff from each division will respond to public comment on proposed ARMs and amend ARMs as necessary dependent upon public comment.   | 05/20/18                                  | 06/11/18                                  |                  |                  |
| Final Filing with Secretary of State  | File final draft of ARMs with Secretary of State.   | 6/11/2018                                 | 6/11/2018, effective date 07/01/18        |                  |                  |

ARMs=Administrative Rules of Montana

OLA=Office of Legal Affairs

DPHHS=Department of Public Health & Human Services

HCBS=Home & Community Based Services

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## State of Montana Home and Community Based Services Settings Transition Plan

### Section 5: Program Administration: Education

| Action Item   | Description  | Proposed Start Date | Proposed End Date | Milestone Status |
|---|--|---------------------|-------------------|------------------|
| Member, Families, Stakeholder and Provider education                                  | Update documents to ensure HCBS information is accurate.   | 10/01/14            | 2/31/2018         |                  |
| DPHHS monitors and identifies member survey to assure consistency in community access | DPHHS incorporates member survey into existing program reviews on an ongoing basis.  | 06/15/15            | 08/01/16          | complete         |
| Incorporate education and HCB compliance understanding into Provider Enrollment       | When agencies enroll to provide HCBS, they are provided guidance on HCB setting requirements. Technical assistance will be provided via telephone calls, letters and other methods as appropriate. Updates provided to CMS as needed.  | 10/01/14            | 06/30/16          | complete         |
| New Provider enrollment process   | Providers that apply to enroll as HCBS providers must fill out a provider self assessment to assess level of compliance. Compliance will be validated via the ongoing monitoring process. DPHHS will review assessments and request remediation plans if necessary to bring setting into compliance. Technical assistance will be provided via telephone calls, letters and other methods as appropriate. DPHHS program staff will validate provider self assessment and remediations to ensure compliance prior to approving new enrollment for HCBS providers. Providers will not be enrolled until settings are 100% compliant. | 02/01/16            | -ongoing          | N/A              |
| Implementation of new provider enrollment process                                     | Statewide implementation of new provider enrollment process.   | 02/01/16            | 07/01/16          | complete         |

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## State of Montana Home and Community Based Services Settings Transition Plan

### Section 6: Program Administration: Manual Revisions

| Action Item  | Description  | Proposed Start Date | Proposed End Date | Milestone Status   | Remedial Actions |
|--|--|---------------------|-------------------|--|------------------|
| Provider Manual revisions                                    | DPHHS revises manuals to incorporate regulatory requirements for HCB and qualities of an HCB setting. This step is congruent with revising administrative rules. | 10/01/14            | 07/01/18          |  |                  |
| <a href="#">Incident Management Manual</a>                   | Workgroup convenes to review manual and make recommendations for revisions. The manual will be updated based on the recommendations.                             | 10/01/14            | 07/01/18          |  |                  |
| <a href="#">Eligibility Manual</a>                           | Review manual to determine the need for revisions.   | 10/01/14            | 07/01/18          | 07/01/16<br>Review complete and no revisions are necessary | N/A              |
| <a href="#">Personal Support Plan (PSP) Procedure Manual</a> | Workgroup convenes to review manual and make recommendations for revisions. The manual will be updated based on the recommendations.                             | 01/01/16            | 07/01/18          |  |                  |
| <a href="#">Rates Manual</a>                                 | Rates manual is updated annually.  | 01/01/16            | Ongoing           | 07/01/16 Annual Update Complete                            | Ongoing          |

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## State of Montana Home and Community Based Services Settings Transition Plan

### Section 7: Heightened Scrutiny

| Action Item                           | Description  | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|---------------------------------------|--|---------------------|-------------------|------------------|------------------|
| Identify Heightened Scrutiny Settings | DPHHS utilizes results from PSA to identify Heightened Scrutiny Settings. Heightened Scrutiny Settings are presumed to be institutional in nature, defined as: 1) in a building that is also a publicly or privately operate facility that provides institutional care; 2) located on the grounds of, or immediately adjacent to, a public institution; or settings that 3) have the effect of isolating individuals receiving HCBS from the broader community.  | 10/01/15            | 10/30/15          |                  |                  |
| Confirm Heightened Scrutiny           | Thirteen settings have been identified to meet one or more of these criteria from the original PSA. Additional settings may be identified as Heightened Scrutiny from onsite validation process. DPHHS confirms settings are Heightened Scrutiny by reviewing building plans and evaluating the nature of the service provided in relation to the HCBS standards. If the state determines a setting is not Heightened Scrutiny based on the above methods, the state will provide CMS with sufficient evidence to demonstrate that the setting is not heightened scrutiny. | 12/01/15            | 02/28/16          |                  |                  |
| Notify providers                      | DPHHS notifies Heightened Scrutiny Settings of their Heightened Scrutiny status, the Heightened Scrutiny process, and HCBS regulations. Providers will be requested to notify DPHHS of their intent to continue providing HCBS services.   | 08/15/16            | 09/15/16          |                  |                  |
| Receive provider intentions           | Providers notify DPHHS of their desire to work with the state through the Heightened Scrutiny process to continue to provide HCB services or of their intention to discontinue providing services.   | 09/16/16            | 10/16/16          |                  |                  |
| Notify support team                   | If the provider chooses to engage in the Heightened Scrutiny process to continue to provide HCB services, the member and support team are made aware that the setting is going through the Heightened Scrutiny process. If the provider is no longer going to provide services, the member and support team are made of aware of this decision. The member and support team develop a transition plan to facilitate the member choosing and moving to an HCBS compliant setting following the member transition process.   | 10/17/16            | 11/01/16          |                  |                  |

## State of Montana Home and Community Based Services Settings Transition Plan

### Section 7: Heightened Scrutiny

| Action Item                                    | Description  | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|--|--|---------------------|-------------------|------------------|------------------|
| Information gathering                          | If the setting determines that they wish to continue to participate in the program, the state works through the Heightened Scrutiny process to describe how the HCBS settings requirement are met and that the setting does have the qualities of HCB settings. DPHHS collects information from and about settings requiring Heightened Scrutiny to begin the process. The information may include zoning requirements, training in HCBS, employee job descriptions, plans of care, policy and procedures, and other documents showing the setting is HCB. | 10/17/16            | 11/30/16          |                  |                  |
| Site surveys of Heightened Scrutiny settings   | DPHHS conducts on-site reviews of Heightened Scrutiny settings to determine if those settings are able meet the characteristics that deem the setting as meeting the HCBS requirements.  | 12/01/16            | 02/28/17          |                  |                  |
| Notifying providers of compliance requirements | DPHHS notifies providers of areas that must come into compliance or be mitigated to continue in the heightened scrutiny process.   | 03/01/17            | 03/31/17          |                  |                  |
| Compliance plans                               | Providers submit compliance plans detailing how they ensure HCBS standards can be met. If changes are needed to come into compliance, providers submit a plan detailing the milestones. Compliance must be achieved by 10/1/17.  | 04/15/17            | 06/15/17          |                  |                  |
| Review compliance plans                        | DPHHS reviews compliance plans and notifies providers of acceptance or denial of plans.  | 04/15/17            | 06/30/17          |                  |                  |
| Compliance site visits                         | DPHHS performs additional on-site reviews of settings requiring changes to come into compliance with HCBS standards.   | 10/01/17            | 01/30/18          |                  |                  |

## ***State of Montana Home and Community Based Services Settings Transition Plan***

### Section 7: Heightened Scrutiny

| Action Item            | Description  | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|------------------------|--|---------------------|-------------------|------------------|------------------|
| Public meeting         | DPHHS publicly notices the settings that are deemed to meet the qualities of HCB settings and wish to continue to provide HCBS, as well as all evidence for each facility of meeting HCBS standards. A public meeting(s) will be held to give additional opportunity for public input. A 30 day public comment period is included. DPHHS will review and respond to the public comments. | 12/01/17            | 03/31/18          |                  |                  |
| Submission to CMS      | DPHHS will submit list of names of settings, locations, and evidentiary packages for all settings out for public comment. Public comment will be reviewed and respond to public comments. DPHHS will embed this information into the existing evidentiary package and insert into transition plan. Updated section will be sent to CMS for review.                                       | 04/01/18            | 06/30/18          |                  |                  |
| Provider disenrollment | Providers who have not come into compliance or are deemed to not meet the qualities of a home and community based setting are provided notice of the state's intent to disenroll them from participation. Members and support teams develop a person-centered transition plan for placement in a setting that meets HCBS criteria following the member transition process.               | 01/01/18            | 08/31/18          |                  |                  |

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PSA=Provider Self-Assessment

HCB=Home & Community Based

HCBS=Home & Community Based Services

CMS=Centers for Medicare and Medicaid Services

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## State of Montana Home and Community Based Services Settings Transition Plan

### Section 8: Remediation Plan

| Action Item                          | Description   | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|--------------------------------------|---|---------------------|-------------------|------------------|------------------|
| Remediation Evaluation.              | For settings that receive an on-site review, PSA's and on-site validations are evaluated to determine areas of remediation required by each setting to be in compliance with HCBS requirements.   | 08/01/16            | 10/31/16          |                  |                  |
| Remediation plan submitted to DPHHS. | Setting provides DPHHS a detailed remediation plan that includes: 1) Area that needs remediation; 2) How the setting proposes to correct the area of noncompliance for each member affected in the setting; 3) Explanation of data/evidence that the setting provides DPHHS that show remediation has occurred; 4) Date that remediation will be completed; and 5) Contact information (e.g., who at the setting will be coordinating with DPHHS staff on the remediation plan. Remediation actions that are individual in nature and not setting specific may be recorded in the care plan/service plan of the member.           | 08/01/16            | 09/30/16          |                  |                  |
| Compliance                           | Compliance must be achieved. The remediation plan's for those settings at 90-100% compliance will be received back from providers by August 19, 2016. The remediation plans for 80-89% will be requested August 15, 2016 and will be received back by October 4, 2016. The remediation plans for 70-79% will be requested October 4, 2016 and will be received back by November 21, 2016. The remediation plans for 69% and less will be requested November 21, 2016 and will be received by January 9, 2017.   | 09/30/16            | 10/01/17          |                  |                  |
| Presumed Compliance Settings         | DPHHS has made the presumption that privately owned or rented homes and apartments of individuals living with family members, friends or roommates meet the HCBS settings requirements if they are integrated in typical community neighborhoods where people who do not receive HCBS also reside. If the setting in question meets any of the scenarios in which there is a presumption of being institutional in nature and DPHHS determines that presumption is overcome, DPHHS will submit to CMS necessary documentation for CMS to conduct a heightened scrutiny review to determine if setting overcomes that presumption. | 05/01/17            | 06/01/18          |                  |                  |
| Remediation plan review.             | DPHHS identifies staff to receive, review and communicate approval/non-approval of remediation plans. DPHHS staff verify compliance through various methods which may include onsite review, documentation review or other ways to determine that compliance has been achieved in accordance with the remediation plan. Technical assistance will be provided via telephone calls, letters and other methods as appropriate. DPHHS notifies the setting (by letter) when evidence of compliance is reached.   | 11/30/16            | 11/30/17          |                  |                  |

## State of Montana Home and Community Based Services Settings Transition Plan

### Section 8: Remediation Plan

| Action Item  | Description  | Proposed Start Date | Proposed End Date | Milestone Status | Remedial Actions |
|--|--|---------------------|-------------------|------------------|------------------|
| Monitor sustained compliance.                                    | DPHHS continues to monitor setting compliance through onsite visits or as part of other monitoring processes for each specific setting type.   | 12/01/17            | Ongoing           |                  |                  |
| Disenrollment of non compliant settings.                         | Settings who choose not to remediate notify DPHHS by letter of their intent to disenroll from the program. If the setting chooses to disenroll and a member is affected by this decision, DPHHS implements member transition process and works with the member through this transition to a compliant setting. | 03/01/18            | 12/31/18          |                  |                  |
| Member transition process.                                       | Members residing in settings that have not come into compliance or are choosing to disenroll from the programs avail themselves of the member transition process.  | 11/30/16            | 03/01/19          |                  |                  |
| Ongoing monitoring of compliance with HCBS setting requirements. | Any setting that is in compliance prior to March 2019 will be expected to remain compliant and will be subject to ongoing monitoring.  | 03/01/19            | Ongoing           |                  |                  |

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# State of Montana Home and Community Based Services Settings Transition Plan

## Section 9: Monitoring Process

| Setting                  | Current Process   | Provider/Member Surveys   | Amendments to current process  | Proposed Start Date | Proposed End Date | Milestone Status |
|--------------------------|---|---|--|---------------------|-------------------|------------------|
| Adult Foster Care        | <p>The onsite evaluations by the DPHHS Licensure Bureau are conducted at an interval not to exceed 3 years. follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are generally conducted onsite. The DPHHS Licensure Bureau is authorized to conduct on site visits at any time just cause is present. Just cause is defined as a referral, a complaint, or any reason where credible evidence requires an investigation.</p> <p>HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul> | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |
| Mental Health Group Home | <p>The onsite evaluations by the DPHHS Licensure Bureau are conducted at an interval not to exceed 3 years. Follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are generally conducted onsite.</p> <p>Mental Health Group Homes are an endorsement for licensed Mental Health Centers. CBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul>  | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |

## State of Montana Home and Community Based Services Settings Transition Plan

### Section 9: Monitoring Process

| Setting  | Current Process  | Provider/Member Surveys   | Amendments to current process  | Proposed Start Date | Proposed End Date | Milestone Status |
|--|--|---|--|---------------------|-------------------|------------------|
| Assisted Living Facilities (adult residential, residential habilitation) | <p>The onsite evaluations by the DPHHS Licensure Bureau are conducted at an interval not to exceed 3 years. Follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are generally conducted onsite. The Licensure Bureau is authorized to conduct on site visits at any time just cause is present. Just cause is defined as a referral, a complaint, or any reason where credible evidence requires an investigation. HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul> | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |
| Supported Living   | <p>HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul>   | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |
| Pre-vocational   | <p>HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul>   | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |

## State of Montana Home and Community Based Services Settings Transition Plan

### Section 9: Monitoring Process

| Setting  | Current Process   | Provider/Member Surveys   | Amendments to current process  | Proposed Start Date | Proposed End Date | Milestone Status |
|--|---|---|--|---------------------|-------------------|------------------|
| Post-acute rehabilitation                        | <p>HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul>  | N/A   | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |
| Day Habilitation and Day Supports and Activities | <p>HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul>  | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |
| Adult Day Care                                   | <p>The onsite evaluations by DPHHS Licensure Bureau are conducted at an interval not to exceed 3 years. Follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are generally conducted onsite. The Licensure Bureau is authorized to conduct on site visits at any time just cause is present. Just cause is defined as a referral, a complaint, or any reason where credible evidence requires an investigation.</p> | Member surveys are completed upon the person's entry into services and annually thereafter. | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |

# State of Montana Home and Community Based Services Settings Transition Plan

## Section 9: Monitoring Process

| Setting  | Current Process   | Provider/Member Surveys | Amendments to current process  | Proposed Start Date | Proposed End Date | Milestone Status |
|--|---|-------------------------|--|---------------------|-------------------|------------------|
| Minimum Standards for all Health Care Facilities | <p>Each facility must be licensed prior to providing a waiver service. The onsite evaluations by DPHHS Licensure Bureau is the authorized agent to inspect the health care facility to determine if the facility meets the minimum regulatory standards set for in 37.106.310. If minimum regulatory standards are met and the proposed staff is qualified, the department may issue a license for periods of up to three years. The citation and sanctions process is outlined in regulation.</p> <p>HCBS Case Management Teams are required to:</p> <ul style="list-style-type: none"> <li>* Distribute satisfaction surveys to members annually.</li> <li>* Provide ongoing oversight of members between 90- 180 day visits, depending on the waiver, which includes onsite visits to the setting.</li> </ul>  | N/A                     | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |
| Therapeutic Group Homes                          | <p>Annual performance audits are conducted by the project supervisor or designee to ensure adherence to the policies, practices, and guidance and to identify any deficiencies and/or trends. Practices are anticipated to continuously evolve in response to emerging standards, best practices and identified issues.</p> <p>Children's Mental Health Bureau staff performs announced quality assurance reviews, to ensure that optimal services are being provided to the youth and their parent(s)/legal representatives, and that program rules and policies are being followed. Quality assurance results will be used to identify and improve programs and services.</p> <p>Data is collected on all youth and their parent(s)/legal representatives in the 1915(i) HCBS State Plan program including their progress, service use, length of time in the program, cost per individualized service plan and aggregate cost.</p> | N/A                     | <ul style="list-style-type: none"> <li>* The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.</li> <li>* State staff do not base their monitoring on all of the new HCBS rules.</li> </ul> | 6/1/2016            | ongoing           | N/A              |

# State of Montana Home and Community Based Services Settings Transition Plan

## Section 9: Monitoring Process

| Setting  | Current Process  | Provider/Member Surveys   | Amendments to current process  | Proposed Start Date | Proposed End Date | Milestone Status |
|--|--|---|--|---------------------|-------------------|------------------|
| Group Homes for Individuals with Intellectual Disabilities | HCBS Case Management Teams are required to:<br>* Distribute satisfaction surveys to members annually.<br>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting. | Member surveys are completed upon the person's entry into services and annually thereafter. | * The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.<br>* State staff do not base their monitoring on all of the new HCBS rules. | 6/1/2016            | ongoing           | N/A              |
| Group Homes for Individuals with Physical Disabilities     | HCBS Case Management Teams are required to:<br>* Distribute satisfaction surveys to members annually.<br>* Provide ongoing oversight of members between 90-180 day visits, depending on the waiver, which includes onsite visits to the setting. | Member surveys are completed upon the person's entry into services and annually thereafter. | * The tools, including checklists used during onsite monitoring, do not include all of the new HCBS rules.<br>* State staff do not base their monitoring on all of the new HCBS rules. | 6/1/2016            | ongoing           | N/A              |
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