Present:			
X	Erin, CWN	X	David, Beacon
X	Kacey, CWN	X	Randal, Sakshaug
X	Dani, RLLS	X	Valkyrie, Sakshaug
X	John, Beeman Enterprises		
X	Nicole, Beacon		
X	Mary Fredericks		
X	Marcy, Spectrum		
Guests: **Kate Johnson**, CWN Recipient Rights Officer **Stewart Mills**, NMRE **Mary Marlatt-Dumas**, NMRE			

Centra Wellness
NETWORK

Provider Forum
DATE: Monday, May 14th, 2018
LOCATION: Administration Building
310 N. Glocheski Drive Manistee, MI 49660
1:00 p.m.

Topics Discussed	Discussion/Decisions	Action/Responsible Party
Introductions	Introductions were made and Erin gave a brief description of the Provider Forum.	
Approval of Agenda	Any additions?	No additions.
Incident Reporting – Kate Johnson, Office of Recipient Rights	Erin noted as part of our critical incident review procedures, we have added a risk event process, which will help analyze and prevent these incidents from occurring in the future. Kate noted incident reporting is the way in which we gather the information. Any unusual event that occurs would require an Incident Report. Kate asked for the following to be emphasized with Staff: 1) If there is any doubt as to whether an incident report should be completed, do one. 2) If there is more than one person involved be sure not to use the second parties PHI (name), but instead code the information using the persons initials or, if not a Centra Wellness client, then Resident 1, 2, etc. 3) The purpose of incident reporting. Erin noted incident reporting is a very important communication tool and can also lead to better clinical outcomes. Kate noted incident reports can be submitted by fax or encrypted email to her at:	Information sharing.

Present:			
X	Erin, CWN	X	David, Beacon
X	Kacey, CWN	X	Randal, Sakshaug
X	Dani, RLLS	X	Valkyrie, Sakshaug
X	John, Beeman Enterprises		
X	Nicole, Beacon		
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1:00 p.m.

Topics Discussed	Discussion/Decisions	Action/Responsible Party
	Fax# (231) 882-2360 kjohnson@centrawellness.org Kate/Erin noted Kate has Rights posters available for anyone in need.	
HCBS Transition Update – Stewart Mills, Northern Michigan Regional Entity (NMRE)	Stewart noted the Medicaid provider manual has been updated to include a summary of the Home and Community Based Services (HCBS) transition rules. Erin gave a copy to all. Stewart recommends Providers start with the Medicaid manual for guidance, as it gives you an idea of what's being looked for and what will put you into compliance. Stewart noted they are in the midst of corrective action plans and heightened scrutiny related to results of the residential setting survey. With the C Waivers (Habilitation Support Waiver, MI Child, SED, & MI Choice)- there were three CWN Provider Network residential settings in need of corrective action plans. One CWN Provider Network residential setting has been placed on heightened scrutiny. Erin alerted Stewart that this setting has not received official contact regarding heightened scrutiny from the State. With B Waiver services (CLS, Skill building, supported employment), Stewart noted they are working on getting data updated from the second round of surveys and will start to review that. There	

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	were some hiccups, so there may be another round for anyone missed the first couple times. Stewart noted three things that will put a Provider on heightened scrutiny – if the setting is: 1) Institutional-like 2) Isolating 3) Homes sharing grounds (i.e. campus like setting). The State is working toward being in full compliance by March 17, 2019. If placed on heightened scrutiny, it would be the year 2020. The Federal requirement is by year 2022. Stewart noted that any person living in their own home is considered compliant. Discussion took place regarding the state licensing rule regarding resident lease agreements. Per the MDHHS and LARA joint guidance document, the "*BCAL-3266 Residential Care Agreement*" form meets the requirements as long as the licensee also provides information on discharge processes and complaints to the resident. A supplemental document *"Summary of Resident's rights: Discharges and Complaints"* could be used. The forms are available online at the location below and will be included (along with the joint guidance document) with the minutes. The forms can be found online at:	

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Topics Discussed	Discussion/Decisions	Action/Responsible Party
	BCAL-3266: www.michigan.gov/lara (>>Community and Health Systems>> Adult Foster Care >> Resident Care Agreement BCAL- 3266) *Summary of Resident's Rights: Discharges and Complaints:* www.michigan.gov/mdhhs (>>Assistance Programs>>Health Care Coverage(Click on the tab)>>Home and Community-Based Services Program Transition) Kate inquired about Child Care Institutions (including residential) and if they are considered compliant? Mary noted it depends on the type of license, and she will look into it. Mary/Stewart are available for training for Case Managers. PCE has a module that we can possibly utilize (being developed by NECMH) for HCBS compliant IPOS documentation. It was noted any restrictions should be in the plan. Crisis residential does not follow under HCBS rules. Discussion regarding house rules and Stewart noted they are no longer permitted, but some guidelines can be included in the resident care agreement. Nicole noted Beacon has a document that gives guidance in agreeing to be respectful to each other.	**Mary** will follow up on CCI licenses related to HCBS compliance and provide an update. **Mary** will get an update to Erin on the timeline for the module testing/implementation after her meeting on Thursday. **Stewart** will send the PCE module draft document to Erin and it will be included with the minutes.

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FY19 Contract Timeline Updates	Erin gave an update. Contract Renewal interest letters will be going out soon for response. Erin noted we are continuing to work on Centra Wellness's website, so please check it out. Erin stated the new contracts will include detailed training requirements. Erin noted the contract is not considered "complete" until we have the fully executed contract and all required documents & training in place. Until this is complete, payments will not be issued. These documents are available on the website. Mary noted her appreciation for this process. Erin noted the current fiscal year ends September 30th, 2018. Erin asked if there were any suggestions or feedback on the contracting process (or quality improvement suggestions)? There were none. Erin asked you share ideas with her at any time.	Information sharing.
Provider Training Requirements	Erin explained the Training requirements vary by type of Provider. Erin handed out a draft version of the CWN Minimum Training requirements document. A couple new trainings this year are *Corporate Compliance and Ethics* and *Environmental Safety* (now being required for everyone). *Trauma Informed Care* training is currently being developed along with C*ulture of Gentleness*. When finalized, the Training	Information sharing.

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	requirements document will be posted on our website. Discussion regarding the free trainings offered by the State of Michigan via a grant funded site: (https://www.improvingmipractices.org) Currently, a State workgroup is looking at these training requirements and curriculum for reciprocity (so they would be accepted by any employer for an individual throughout the entire State). It also gives CMH's a vetting tool to make sure trainings are meeting the standards. Per Mary, it has all the required residential trainings. It also keeps a transcript in the system of when trainings were taken, and if they need renewing.	
Ideas for Future Forum Meetings	Recommendations or ideas? John suggested projecting information and documents referenced during the meeting. Erin noted she's hoping to add a Skype option or have both Benzie and Manistee locations available for every meeting in Fiscal Year 2019.	
Next Meeting	**Monday, August 13th, 2018 1:00-3:00**	**Benzie Community Resource Center, Lower Level/Ingemar Room**

Minutes by: Kacey Kidder-Snyder

HOME AND COMMUNITY BASED SERVICES

TABLE OF CONTENTS

[Chapter Added Per Bulletin MSA 17-42]

SECTION 1 – GENERAL INFORMATION

1.1 OVERVIEW

On January 16, 2014, the Centers for Medicare & Medicaid Services (CMS) released the Home and Community Based Services (HCBS) Final Rule (CMS 2249-F/2296-F). The HCBS Final Rule specifies requirements for programs offering HCBS under the 1915(c), 1915(i), 1915(k), some 1915(b)(3) and 1115 authorities of the Social Security Act. These requirements, as further specified in this chapter, aim to improve the quality of the lives of individuals, allowing them to live and receive services in the least restrictive setting possible with full integration in the community. The Michigan Department of Health and Human Services (MDHHS) is responsible for ensuring all requirements are met.

The HCBS Final Rule includes the following:

- Requirements for the person-centered planning process to ensure individuals are involved in planning their services and supports to the maximum extent possible and that their wishes are reflected in the person-centered service plan.
- Requirements for HCBS and the settings in which they are provided. Settings in which individuals live (residential) and settings where individuals go to receive services (non-residential) are affected by the HCBS Final Rule. The settings requirements aim to ensure community integration and to ensure individuals receiving Medicaid HCBS have the same opportunities as individuals in those settings who are not receiving Medicaid HCBS.
- Allows CMS to approve or renew demonstration and waiver programs for five years if individuals are dually eligible for Medicare and Medicaid.
- Requires a 30-day public notice and comment period, including at least one non-electronic form of communication, for:
  - Substantive changes, including but not limited to, revisions to services available under the waiver including: elimination or reduction of services, or reduction in the scope, amount, and duration of any service; a change in the qualifications of service providers; changes in rate methodology; or a constriction in the eligible population; and
  - Any significant proposed change in its methods and standards for setting payment rates for services in accordance with federal law.
- Allows states to combine target groups based on diagnosis, disability, Medicaid eligibility groups, and/or age under one waiver authority.
- Provides requirements for independent assessment. This is a face-to-face assessment, conducted by a conflict-free individual or agency. The assessment is based on the individual's needs and strengths and is part of the person-centered planning process. Telemedicine is an acceptable method of assessment. Federal statute requires the State to provide for an independent assessment of need to establish a person-centered service plan. The assessment must be conducted at least every 12 months, or as requested by the individual or his/her representative, and/or as needed when there is a significant change in the individual's services or support needs. The individual's person-centered service plan must be updated to reflect this change in needs. For more information, refer to the federal regulation.

- Clarifies the scope of the term "individual representative." An individual representative may be:
  - The individual's legal guardian or other person authorized by state law to represent the individual in decision-making related to the individual's care or well-being. CMS offers that, in instances where state law gives decision-making authority to an individual representative, the individual receiving services will lead the person-centered planning process where possible and the individual representative will participate as needed and desired by the individual receiving services;
  - Any other person authorized under federal law or state policy to represent the individual, including but not limited to a parent, family member, or other advocate; and
  - If the representative is authorized by the state, the state must have policies in place that describe the authorization process, the extent of the decision-making authority, and safeguards to ensure the representative is acting on behalf of the individual with exceptions in cases where the individual's wishes cannot be determined or if the individual's wishes would be harmful.

1.2 Effective Date

The HCBS Final Rule was effective March 17, 2014. With the exception of the Home and Community Based (HCB) settings requirements, all topics covered by the HCBS Final Rule were effective on this date. The HCBS Final Rule requires programs approved by CMS after March 17, 2014, to be in immediate compliance with the entire HCBS Final Rule, including the settings requirements. The MI Health Link HCBS Waiver was initially approved by CMS for January 1, 2015, and must be in immediate compliance with the HCBS Final Rule.

Programs in existence before March 17, 2014 must be compliant with the federal HCB Settings Requirement on or before March 17, 2022:

- MI Choice Waiver
- Habilitation Supports Waiver
- Children's Waiver Program
- Children with Serious Emotional Disturbance Waiver Program
- Managed Specialty Services and Supports Waiver Program

Providers should refer to the relevant program chapter in this manual for requirements unique to that program.

SECTION 2 – PERSON-CENTERED PLANNING

The HCBS Final Rule provides guidance regarding the person-centered planning process. The HCBS Final Rule requires the individual to direct the process and lead it to the extent possible and desired by the individual, with participation of people chosen by the individual and to the extent desired by the individual. The individual's representative, if applicable, should have a participatory role as needed and defined by the individual unless decision-making authority has been granted to the representative by State law. The person-centered planning process must:

- Occur in a timely manner and at times and locations of the individual's choosing;
- Provide information and support to the individual in order to ensure maximum direction from the individual and to enable informed choice;
- Provide an informed choice of supports and identify who provides them;
- Include a mechanism to request updates in the plan;
- Document alternative(s) considered but not chosen;
- Include strategies for resolving disputes and identifying conflicts of interest; and
- Be free from conflict of interest, meaning those persons who have an interest in or are employed by a provider of HCBS for the individual must not be involved in case management or development of the person-centered service plan, except when the State demonstrates that the entity is the only willing and qualified entity available to complete these functions and also provide HCBS.

The person-centered service plan must be in written format and signed by the individual and his/her representative, as applicable, and providers responsible for the implementation of the plan (at a minimum, this includes the person or entity responsible for coordinating the individual's services and supports). The person-centered service plan must be distributed to the individual and any others involved in the plan. The plan must be reviewed at least every 12 months, or more frequently if the individual chooses or has a change in service needs.

The person-centered service plan must:

- Reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need;
- Include what is important to the individual regarding their preferences for the delivery of the services and supports;
- Reflect that the individual has chosen the setting in which he or she resides, also including non-disability specific settings;
- Reflect the individual's strengths and preferences;
- Reflect the clinical and support needs as identified through an assessment of functional need;
- Include individually identified goals and desired outcomes;
- Reflect services and supports that will assist the individual to achieve the identified goals, and identify the providers of those services and supports;

- Reflect risk factors and measures in place to minimize them, including backup plans and strategies;
- Identify the person or entity responsible for monitoring the plan;
- Be finalized and agreed to with the informed consent of the individual;
- Include self-directed services;
- Prevent the provision of unnecessary or inappropriate services and supports;
- Document that any modifications of the HCB settings requirements are based upon a specific assessed health and safety need and justified in the person-centered service plan:
  - Identify the specific assessed need(s);
  - Document the positive interventions and supports used previously;
  - Document less intrusive methods that were tried and did not work, including how and why they did not work;
  - Include a clear description of the condition that is directly proportionate to the assessed need;
  - Include regular collection and review of data to measure the effectiveness of the modification;
  - Include established time limits for periodic review of the modification;
  - Include informed consent of the individual; and
  - Include assurances that the modifications will cause no harm to the individual.

The person-centered service plan must be written in plain language that is easily understood by the individual and others supporting him/her. The language in the service plan must also be understandable by individuals with disabilities and those with limited English proficiency, in accordance with federal law.

SECTION 3 – HOME AND COMMUNITY BASED SETTINGS

3.1 CHARACTERISTICS OF A HOME AND COMMUNITY BASED SETTING

Through the HCBS Final Rule, CMS imposed certain requirements for HCB settings which consist of those settings where individuals live (residential settings) and those where individuals go to receive services (non-residential settings). All HCB settings where people live or receive Medicaid HCBS must have the following characteristics to the same extent as those individuals not receiving Medicaid HCBS:

- Be integrated in, and support full access to, the greater community, including opportunities to seek competitive and integrated employment, control of personal resources, and access to community services;
- Be selected by the individual from among a variety of setting options and, for residential settings, consistent with the individual's available resources to pay for room and board;
- Ensure individuals have the right to privacy, dignity and respect, as well as freedom from coercion and restraint;
- Optimize but not regiment the individual's autonomy and independence in making life choices regarding what they participate in and with whom; and
- Facilitate the individual's choice of services and supports, as well as who provides them.

When an individual chooses to receive Medicaid HCBS in a provider-owned and/or -controlled setting where the provider is paid a single rate to provide a bundle of services, the individual is choosing that provider, and cannot choose an alternative provider, to deliver all services that are included in the bundled rate. For any services that are not included in the bundled rate, the individual may choose any qualified provider, including the provider who controls or owns the setting, if the provider offers the service separate from the bundle. Any home owned or leased by a provider must adhere to the additional requirements described in federal law.

Settings that are presumed to not meet the HCB settings requirements are:

- Those in a publicly- or privately-owned facility providing inpatient treatment;
- On the grounds of, or adjacent to, a public institution; or
- Any that otherwise have the effects of isolating individuals from the broader community of individuals who are not receiving Medicaid HCBS.

Settings that are on the grounds of, or adjacent to, a private institution are not automatically presumed to have the characteristics of an institution. However, if the setting isolates the individual from the broader community (or otherwise has the characteristics of an institution) or fails to meet the characteristics of an HCB setting, the setting would **not** be considered to be compliant with the regulation.

All settings, including facility- or site-based settings (e.g. pre-vocational services in a facility-based setting such as a sheltered workshop or dementia-specific adult day care centers) must demonstrate the qualities of HCB settings, ensure the individual's experience is HCB and not institutional in nature, and does not isolate the individual from the broader community. In particular, if the setting is designed specifically for people with disabilities, or individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them, the setting may be isolating unless the setting facilitates and encourages people going out into the broader community.

3.1.A. Requirements for Residential Settings

The requirements for residential settings apply to provider-owned or controlled settings. An individual's private home is presumed to be compliant with the HCB requirements. Individuals receiving Medicaid HCBS shall enjoy the same rights, protections and assurances in all living arrangements as those not receiving Medicaid HCBS.

3.1.A.1. Meals

Individuals must have access to food at any time. This does not mean the residential setting must be prepared to make a full meal at any time, but the individual must have access to some type of food when he/she chooses. The type of food offered must be something that the individual likes to eat.

3.1.A.2. Visitors

Individuals must be allowed to have visitors of their choosing at any time.

3.1.A.3. Lockable Doors

Residential settings must have bedroom and bathroom doors that are lockable by the individual, with only appropriate staff having keys to the doors. The doors must be lockable from the inside of the room and equipped with positive-latching, non-locking-against-egress hardware. This means the door should open from the inside in one single motion such as the turn of the knob or handle. If a setting has private bedrooms that include private bathrooms, only the main door to the bedroom/unit must be lockable, though MDHHS encourages that both the bedroom door and bathroom door be lockable.

3.1.A.4. Freedom to Furnish and Decorate Room

Individuals must have the freedom to furnish and decorate their room however they choose. In the case of a shared room, the furnishings and decor may be a collaborative effort with roommates.

3.1.A.5. Choice of Roommate

Individuals must have their choice of roommate if possible. In some circumstances, there may only be limited beds available at the residence so if the individual chooses that setting, he/she may also be choosing that bed without the ability to choose the roommate. Different arrangements may be made as the individual continues to live in that setting.

3.1.A.6. Freedom to Control Schedule, Activities and Resources

Individuals must have freedom to control their own schedules, activities and resources to the extent they desire. If they choose to receive assistance, that should be provided as needed and desired by the individual.

3.1.A.7. Privacy

Individuals must have privacy in their unit. This includes physical privacy as well as keeping any of the individual's confidential information private. Protected health information and other confidential personal information must not be kept in an open, common, unlocked area.

3.1.A.8. Accessibility [Changes Made 4/1/18]

Each setting must be physically accessible to the individuals residing there so the individuals may function as independently as they wish. Individuals must be able to move around in the setting without physical barriers getting in their way. This is especially true for individuals utilizing wheelchairs or who require walking aids. Furniture must be placed in such a way that individuals can easily move around it, with pathways large enough for a wheelchair, scooter or walking aids **(revised 4/1/18)** to navigate easily if individuals with these types of mobility aids reside in the setting.

3.1.A.9. Evictions and Appeals

Individuals receiving services must have a lease or other legally enforceable agreement that offers comparable responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state, county, city or other locality.

For settings in which landlord/tenant laws do not apply, MDHHS or its designee must ensure that a lease or other written agreement is in place for each individual and that the lease or agreement provides protections that address eviction processes and appeals similar to that of landlord/tenant laws.

3.1.A.10. House Rules

Although house rules are optional under State of Michigan licensing rules for Adult Foster Care and Homes for the Aged, for the purposes of the HCBS Final Rule, house rules will not be permitted.

3.1.A.11. Control of Personal Resources

The HCBS Final Rule requires that individuals be able to control their personal resources.

3.1.B. Requirements for Non-Residential Settings

The requirements of non-residential settings apply to provider-owned or -controlled settings. Individuals receiving Medicaid HCBS shall enjoy the same rights, protections and assurances as others receiving the same service.

3.1.B.1. SKILL-BUILDING ASSISTANCE

Skill-building assistance must provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual. This service assists individuals in increasing their self-sufficiency or to develop the skills needed to engage in meaningful community-based activities such as school, work or volunteer activities.

3.1.B.2. COMMUNITY LIVING SUPPORTS

Community Living Supports (CLS) must promote community inclusion and participation and facilitate an individual's independence and productivity. Services should provide opportunities for integration with the community and participation in activities comparable to activities for individuals of similar age or with similar interests who do not receive Medicaid HCBS.

3.1.B.3. SUPPORTED EMPLOYMENT

Supported employment provides a combination of ongoing support and paid employment that enables the individual to work in the community. Setting options offered should include community-based, integrated work settings where individuals with disabilities work alongside other individuals who do not have disabilities.

3.1.B.4. ADULT DAY CARE

Adult day care programs must offer activities for individuals receiving Medicaid HCBS that are comparable to those tasks and activities for individuals of similar age and ability who are not receiving Medicaid HCBS. There also must be interaction between individuals receiving Medicaid HCBS and those not receiving Medicaid HCBS. Services must provide an opportunity for integration with the larger community. Individuals must not be kept from moving around inside or outside of the non-residential setting. If individuals require supervision to move about the setting or go outside, that supervision must be provided.

3.2 SETTINGS NOT COMPLIANT WITH THE HCBS FINAL RULE REQUIREMENTS [CHANGE MADE 4/1/18]

Some settings have been identified by CMS as not HCB due to institutional status and will never be considered HCB. These settings are:

- Nursing facilities
- Institutions for mental disease
- Intermediate care facilities for individuals with intellectual disabilities
- Hospitals
- Other locations that have characteristics of an institution (e.g., Child Caring Institutions) **(text added 4/1/18)**

3.3 Reverse Integration

According to the HCBS Final Rule, reverse integration does not make a setting HCB. Reverse integration is when the setting brings providers into the setting from the community instead of taking the individual out to the provider. For example, medical providers, members of clergy, hairstylists, or nail artists, among others, are brought into the setting. While it is acceptable to have providers such as these come into the setting, this must not be the only contact with community providers allowed for individuals receiving services. Individuals must also have the option to go out into the community and participate with providers of their choosing.

3.4 Remediation of Settings and Relocation of Individuals

Based on review by MDHHS, some residential and non-residential settings that are not institutions may be considered to be non-compliant with the HCBS Final Rule due to not meeting the characteristics of an HCB setting as defined by CMS. The State and its contracted entities will work with these settings to bring them into compliance if the setting owner chooses to be compliant. If the setting owner declines to come into compliance with the HCBS Final Rule, the State and its contracted entities will work with affected individuals to transition to a different setting that is compliant. As applicable, individuals must be provided with compliant residential or non-residential options from which to choose. If the individual does not want to move to a different, compliant setting, he/she will be disenrolled from the Medicaid HCBS program.

Timeframes for relocation of individuals and continued program participation are dependent on the aforementioned CMS requirements for whether the specific program is considered new or existing as of the effective date of the HCBS Final Rule. Refer to the program chapter of this manual for specific requirements unique to that program.

3.5 Heightened Scrutiny

The State and CMS have a process for "heightened scrutiny" which consists of further review of any settings that wish to participate and are considered compliant with the HCBS Final Rule with all characteristics except some, such as location of the setting close or connected to an institution. This will involve MDHHS and its contracted entities gathering evidence of potential compliance and submitting this to CMS for final approval.

MDHHS is responsible for determining if a setting qualifies for the "heightened scrutiny" process through its assessments of the setting that appears to have qualities which are HCB and does not have qualities that are institutional in nature. MDHHS will request that this type of setting go through the "heightened scrutiny" process with CMS. Only a setting that can comply 100 percent with the federal HCB Settings Requirement will be submitted to CMS for "heightened scrutiny" process.

A setting that will require heightened scrutiny has at least one of the following characteristics:

- Settings located in a building that is also a publicly- or privately-operated facility that provides inpatient institutional treatment.
- Settings in a building on the grounds of, or immediately adjacent to, a public institution.
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

3.6 New Settings

All new settings (either newly established or new to the specific program) must be immediately compliant with the HCBS Final Rule. Determination of a new setting's compliance with the HCBS Final Rule must be determined after the setting is built and has been operational with residents or individuals receiving services in order for the evaluating entity to have a full understanding of the individual's experience while participating with the setting.

3.7 New Providers [Subsection Added 4/1/18]

Effective October 1, 2017, any new HCBS provider and their provider network must be in immediate compliance with the federal HCBS Final Rule in order to render services to Medicaid beneficiaries. This requirement does not apply to existing providers and their provider networks who rendered HCBS to Medicaid beneficiaries before the effective date of this requirement. The Michigan Department of Health and Human Services (MDHHS) will continue to work with existing providers towards coming into compliance with the federal HCBS Final Rule as specified in the State Transition Plan.

In order to comply with the federal HCBS Final Rule, new providers must:

- Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Enhance independence;
- Enhance independence in making life choices;
- Enable choice regarding services and who provides them; and
- Ensure that the setting is integrated in, and supports full access to, the greater community.

New residential providers must demonstrate that services are delivered within a setting affording the beneficiary sufficient opportunity and choice to engage with the broader community by ensuring that the:

- Setting is selected by the individual from among setting options;
- Individual has a lease or other legally enforceable agreement providing similar protection;
- Individual has privacy in his/her unit, including lockable doors;
- Individual has a choice of roommates (if applicable) and freedom to furnish or decorate the unit;
- Individual controls his/her own schedule, including access to food at any time;
- Individual can have visitors at any time; and
- Setting is physically accessible.

New non-residential providers must demonstrate that services are delivered within a setting affording the beneficiary sufficient opportunity and choice to engage with the broader community by ensuring that the setting:

- Does not isolate the individual from the broader community; and
- Is not institutional in nature or has the characteristics of an institution. **(text added per bulletin MSA 17-31)**

3.8 ONGOING MONITORING [RE-NUMBERED 4/1/18]

The State and its contracted entities are responsible for conducting ongoing monitoring activities to ensure settings remain in compliance with the HCBS Final Rule. Refer to the program chapter of this manual for specific requirements unique to that program.

STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

RICK SNYDER
GOVERNOR

NICK LYON
DIRECTOR

May 15, 2017

Dear Provider:

The Centers for Medicare and Medicaid Services issued a new rule for Medicaid waiver programs that offer home and community-based services (HCBS). The federal rule affects home and community-based service programs that are authorized under the 1115, 1915(b)(3), 1915(c), 1915(i), or 1915(k) sections of the Social Security Act. The HCBS Final Rule establishes new requirements for characteristics that home and community-based settings must have in order to receive Medicaid funding.

The Michigan Department of Health and Human Services (MDHHS) must assess settings under the following four waivers for compliance with the characteristics outlined in the HCBS Final Rule:

- MI Choice Waiver Program
- Habilitation Supports Waiver Program
- MI Health Link HCBS Waiver Program
- Managed Specialty Services and Supports Waiver - §1915(b)(3) services

As part of the assessment process, MDHHS has been working with the Bureau of Community and Health Systems and the Bureau of Fire Services within the Department of Licensing and Regulatory Affairs (LARA) to address issues related to licensing of Adult Foster Care (AFC) homes and Homes for the Aged (HFA). Stakeholders have raised questions about whether state licensing rules conflict with the characteristics outlined under the final rule. In particular, stakeholders have questioned whether the federal requirements conflict with state licensing requirements on the following issues:

- Lockable Doors
- Visiting Hours
- Residency Agreements and State Landlord-Tenant Law
- Choice of Providers
- Freedom of Movement
- Choice of Roommate
- Access to Earned Income

After reviewing the relevant laws and regulations, MDHHS and LARA have determined that the requirements under the final rule and state licensing rules are in alignment for the aforementioned issues. As part of this review, MDHHS and LARA are issuing the following guidance to stakeholders.

For additional questions regarding the home and community-based services rule or the setting compliance process, please email HCBSTransition@michigan.gov.

Thank you for your attention to this matter.

Richard C. Miles
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Department of Health and Human Services

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Department of Health and Human Services

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INTRODUCTION
KEY TERMS AND ASSOCIATED ACRONYMS

The following key terms and associated acronyms are used in this document:

Term	Acronym	Definition
Adult Foster Care Home	AFC	"Adult foster care congregate facility" means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care. "Adult foster care family home" means a private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence. "Adult foster care large group home" means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care. "Adult foster care small group home" means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.
Bureau of Community and Health Systems	BCHS	BCHS is the bureau within LARA that is responsible for licensing and certifying facilities and agencies including licensing of Adult Foster Care and Home for the Aged facilities.
Bureau of Fire Services	BFS	BFS is the bureau within LARA that is responsible for ensuring facilities are constructed and maintained in accordance with the Life Safety Code.
Centers for Medicare and Medicaid Services	CMS	A federal agency within the United States Department of Health and Human Services that works in partnership with State governments to administer the Medicaid program.
Continuing Care Community Disclosure Act	CCCDA	An Act to regulate long-term leases in adult foster care facilities, independent living units, nursing homes, homes for the aged, home care service agencies and hospices. (MCL 554.901 et. seq.) This Act excludes adult foster care homes and homes for the aged from the state's landlord tenant laws
Earned Income		Earned income is income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Some rental income is considered earned.
Foster Care		"Foster care" means the provision of supervision, personal care, and protection in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.

Home and Community Based-Services Final Rule	HCBS Final Rule	The HCBS Final Rule establishes new federal requirements for different Medicaid authorities that allow States to provide home and community-based long term services and supports to eligible persons. The rule requires Medicaid Home and Community-Based Services (HCBS) Waiver Programs to ensure that waiver participants have full access to benefits of community living and opportunity to receive services in the most integrated settings.
Home for the Aged	HFA	"Home for the aged" means a supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility that provides room, board, and supervised personal care to 21 or more unrelated, non-transient, individuals 60 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 60 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home.
Lockable Door		A lockable door is a side-hinged, permanently mounted door that is equipped with positive-latching, non-locking-against-egress hardware. The hardware must be able to be opened from the inside of a room with a single motion; such as a turn of a knob or push of a handle, even if the door is locked.
Medicaid-Funded Home and Community-Based Services		Services and supports that are offered through a Home and Community-Based Services Waiver program reimbursed by Medicaid.
Medicaid Home and Community-Based Services (HCBS) Waiver Program		Medicaid HCBS Waiver Program allows a State Medicaid Agency to meet the needs of people who prefer to get long-term care services and supports in their home or community, rather than in an institutional setting. The Program requires that HCB services follow an individualized and person-centered plan of care.
Michigan Compiled Laws Annotated	MCLA	Complete text of Michigan statutes, supplemented by succinct annotations.
Michigan Department of Health and Human Services	MDHHS	MDHHS is the Department within the State of Michigan that is responsible for administering the Michigan Medicaid Program. MDHHS is also responsible for implementing HCBS Final Rule.
Michigan Department of Licensing and Regulatory Affairs	LARA	LARA is responsible for safeguarding Michigan's citizens through a simple, fair, efficient and transparent regulatory structure.
Person Centered Planning	PCP	Person-Centered Planning (PCP) means a process for planning and supporting the person receiving services that builds upon his or her capacity to engage in activities that promote community life and that honors the person's preferences, choices, and abilities. The PCP process involves families, friends, and professionals as the person desires or requires. PCP is required by state law (Michigan Mental Health Code MCL 330.1712 and federal law (42 CFR 441.540) as the way that people plan for the services and supports that they receive from

		the community mental health system. PCP is used anytime an individual's goals, desires, circumstances, preferences, or needs change.
Provider-Owned and Controlled		A provider-owned and controlled setting is a setting that is owned and controlled by a Prepaid Inpatient Health Plan, Community Mental Health Service Provider, or contracted provider. A residential setting may be provider-owned and controlled if the waiver participant lives in a private residence that is owned or controlled by the Prepaid Inpatient Health Plan, Community Mental Health Service provider, or the contracted provider. "Controlled" means the person accepts the provider's staff as part of the living arrangement - provider controls the "choice" of who delivers the direct services in a package deal.
Residency Agreement		A residency agreement is a written, legally-enforceable agreement between a resident and owner that outlines the rights and protections when residing in a residential property. A residency agreement must be in compliance with state-landlord tenant law unless the residential setting is regulated under other statutes such as state licensing laws and the Continuing Care Community Disclosure Act. A residency agreement may also be known as a "Lease".
Resident Care Agreement		A resident care agreement is the document which is established between the resident or the resident's designated representative, the responsible agency, if applicable, and the licensee and which specifies the responsibilities of each party. A resident care agreement shall include all of the following: (a) An agreement to provide care, supervision, and protection, and to assure transportation services to the resident as indicated in the resident's written assessment plan and health care appraisal. (b) A description of services to be provided and the fee for the service. (c) A description of additional costs in addition to the basic fee that is charged. (d) A description of the transportation services that are provided for the basic fee that is charged and the transportation services that are provided at an extra cost. (e) An agreement by the resident or the resident's designated representative or responsible agency to provide necessary intake information to the licensee, including health-related information at the time of admission. (f) An agreement by the resident or the resident's designated representative to provide a current health care appraisal as required by subrule (10) of this rule. **(g)** An agreement by the resident to follow the house rules that are provided to him or her. **(See HCBS house rule exception statement on page 9)**

		(h) An agreement by the licensee to respect and safeguard the resident's rights and to provide a written copy of these rights to the resident. (i) An agreement between the licensee and the resident or the resident's designated representative to follow the home's discharge policy and procedures. (j) A statement of the home's refund policy. The home's refund policy shall meet the requirements of R 400.14315. (k) A description of how a resident's funds and valuables will be handled and how the incidental needs of the resident will be met. (l) A statement by the licensee that the home is licensed by the department to provide foster care to adults. (7) A department resident care agreement form shall be used unless prior authorization for a substitute form has been granted, in writing, by the department. A resident shall be provided the care and services as stated in the written resident care agreement.
Service Plan		The individual Plan of Service (IPOS) is a written individual plan of services developed in partnership with the individual receiving services. The IPOS shall consist of a treatment plan, a support plan, or both. It must include the amount, scope and duration for each service and support. A treatment plan shall establish meaningful and measurable goals with the individual receiving services. The IPOS shall address, as either desired or required by the recipient, the recipient's need for food, shelter, clothing, health care, employment opportunities, educational opportunities, legal services, transportation, and recreation. The IPOS shall be kept current and shall be modified when indicated (reviewed and renewed at least annually). The individual in charge of implementing the IPOS shall be designated in the plan. The use of the Person Centered Planning process (PCP) is required by state law (Michigan Mental Health Code MCL 330.1712 and federal law (42 CFR 441.540) as the way that people plan for the services and supports that they receive from the community mental health system.
State Landlord-Tenant Law		State landlord-tenant law governs the rental of commercial and residential property. For the purposes of this document, the definition of state landlord-tenant law includes but is not exclusively limited to (1) MCL 554.631 to 554.641; and (2) MCL 600.5701 to 600.5759.
State Licensing Administrative Rules		Rules developed by LARA in accordance with the law in order to ensure the safety of residents in HFA and AFC facilities.
Unearned Income		Unearned income is all income that is not earned.

LOCKABLE DOORS

The HCBS Final Rule requires residential settings to offer units that have bedroom and shared bathroom doors that are lockable by the individual, with only appropriate staff having keys to doors. If there are private bedrooms that include private bathrooms, only the door to the bedroom must be lockable, though MDHHS encourages that both the bedroom door and bathroom door to be lockable. Both the BFS and the BCHS allows AFC and HFA facilities to have bedroom and bathroom doors that are lockable from the inside of the room. In order to meet both the HCBS Final Rule and AFC/HFA licensing requirements, the bedroom door shall be equipped with a side-hinged, permanently mounted door that is equipped with positive-latching, non-locking- against-egress hardware (hardware that can be opened from the inside of a room with a single motion; such as a turn of a knob or push of a handle, even if the door is locked).

In accordance with the AFC/HFA licensing requirements, appropriate staff must have a key to the bedroom or bathroom door if the individual has a lockable door, this key should be stored in an area not accessible to all staff and residents.

The associated licensing rules for bedroom and bathroom doors are as follows: R 400.1430 (2), R 400.1431 (3), R 400.14407 (3) and R 400.14408 (4) R 400.15407 (3) and R 400.15408 (4).

Exceptions to the HCBS Final Rule may apply in the following circumstances:

1. individual has an assessed need that would be addressed by having a different hardware on the door;

2. need is identified and documented in the individual's person-centered plan or assessment plan;

3. modification is made based upon the individual's need instead of the setting's requirements; and

4. modification meets all other pertinent state and federal regulatory requirements.

VISITING HOURS

The HCBS Final Rule requires residential settings to allow individuals to have visitors of their choosing at any time.

RESIDENCY AGREEMENT AND STATE LANDLORD-TENANT LAW

The HCBS Final Rule states that settings must have several "qualities" in order to be considered home and community-based. More specifically, a residential setting that is provider-owned or controlled must demonstrate the following qualities:

The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

The Continuing Care Community Disclosure Act specifically exempts certain facilities, such as AFCs and HFAs from the state's landlord tenant laws. Consequently, these licensed settings, pursuant to HCBS Final Rule, must have a legally enforceable residential agreement that provides protections that address eviction processes and appeals comparable to the state's landlord tenant laws.

MDHHS has determined that current state licensing rules offer comparable protections and rights as the state's landlord-tenant laws on issues related to discharge processes and appeals. Specifically, both the state's landlord tenant laws and state's licensing rules require prior notice and an opportunity to appeal or contest the eviction or discharge to an impartial decision maker. However, unlike the landlord tenant laws, the licensing rules have built in protections to accommodate the health, safety and wishes of the resident. MDHHS has determined that the variance between the licensing rules and landlord tenant laws, provide comparable protections as the state's landlord tenant laws and additionally allow the setting to make person centered placement decisions in accordance with the resident's wishes and for the resident's health and safety that would not be permitted under the state's landlord tenant laws.

MDHHS and LARA also agreed that both AFC and HFA licensed facilities must have a residential agreement that outlines these protections and rights. Because current state licensing rules offer comparable protections to state landlord-tenant laws, a residency agreement for a licensed setting that meet the requirements of state licensing rules may also meet the requirements of the HCBS Final Rule if the residency agreement includes information on discharge processes and complaints.

Based on these findings, MDHHS and LARA have determined that both AFC and HFA facilities may use residency agreements to meet the requirements of state licensing rules and the HCBS Final Rule under the following conditions:

- AFC Homes: State licensing rules require AFC homes to use the BCAL-3266 Resident Care Agreement form. MDHHS and LARA have agreed that the BCAL-3266 form meets the requirements of the HCBS Final Rule if the licensee also provides information on discharge processes and complaints to the resident. MDHHS and LARA have also created a supplemental document, known as the "Summary of Resident Rights: Discharges and Complaints", which could be used by an AFC home in conjunction with BCAL-3266 form to meet the requirements of state licensing rules and the HCBS Final Rule. Licensees may still use their own residency agreements if the residency agreement outlines the relevant discharge and complaints processes and meets all applicable state and federal requirements.

- HFA Homes: State licensing rules do not require HFA homes to use a specific document as a residency agreement. MDHHS and LARA have agreed that licensees may design and use their own residency agreements to meet the federal requirement if the residency agreement outlines the relevant discharge and complaints processes and meets all applicable state and federal requirements. MDHHS and LARA have also agreed that licensees could use the Summary of Resident Rights: Discharges and Complaints document to fulfill the state and federal requirement to outline relevant discharge and complaint processes.

After also comparing this interpretation to existing state requirements, MDHHS and LARA have agreed that this interpretation complies with rules R 400.14301(6), 400.15301(6), and R 400.1407(5) as outlined by the BCHS.

The BCAL-3266 form and Summary of Resident Rights: Discharges and Complaints document can be found online at the following locations:

Name of the Document	Location
BCAL-3266	www.michigan.gov/lara >> Community and Health Systems >> Adult Foster Care >> Resident Care Agreement BCAL-3266
Summary of Resident Rights: Discharges and Complaints	www.michigan.gov/mdhhs >> Assistance Programs >> Health Care Coverage (Click on the tab) >> Home and Community-Based Services Program Transition

HOUSE RULES

Although house rules are optional under state licensing rules, for the purposes under HCBS Final Rule, house rules will not be permitted.

CHOICE OF PROVIDERS

In many AFC and HFA facilities, the provider of services is the same entity as the owner of the setting. Some stakeholders have contended that this arrangement conflicts with the requirements of the HCBS Final Rule.

The HCBS Final Rule does not expressly prohibit the provision of services in provider-owned and/or controlled settings. The HCBS Final Rule only requires that they be assessed for compliance with the home and community-based characteristics as outlined under the HCBS Final Rule. One of these characteristics is that participants must be offered a choice of providers within the waiver program. A participant could choose a setting that offers services from a specific provider under the following conditions:

1. The participant is offered an array of options in terms of where he or she will receive services by his or her supports coordinator.

2. If the participant chooses a setting where a specific provider offers services, the participant should also be informed by his or her service agency that he or she is choosing a specific provider by choosing that specific setting.

3. The participant should also be provided with information by his or her service agency about how to select a new provider and setting, and the array of available options when he or she desires.

4. The participant may also use private funds to reimburse other providers for additional services such as skilled therapies and other assistance.

MDHHS and LARA have determined that this approach complies with state licensing rules.

FREEDOM OF MOVEMENT

State licensing rules allow for settings to require supervision or place restrictions on the freedom of movement of residents or in accordance with the individual's service plan.

The HCBS Final Rule includes the requirement that individuals must not be unnecessarily restricted in their movement.

If an individual has a specific health or safety related need that requires supervision or restriction on the individual's freedom to move inside the setting or in the community this need must be clearly documented in the individuals person centered plan and meet all the modification requirements outlined in the modification section of this document.

MDHHS and LARA have determined that this approach complies with state licensing rules.

Specific Licensing Rule Citations: Rule 408, MCLA 400.707(7), R 400.1707(2)(a), and R 400.14301(2)(a)

CHOICE OF ROOMMATE

Residents in many AFC homes and HFA facilities have an option of choosing to live with a roommate.

An individual's choice of roommate and room may be limited by the availability of open rooms within the individual's chosen residential setting. The licensee for the setting should discuss potential options for rooms and roommates with the participant prior to completing the residency agreement. Individuals must be aware of the process to request a different roommate or to change from a shared to a private room should their preferences change over time.

If an individual's preferences cannot be immediately met by a provider individuals must be informed of their right to pursue alternative settings where their preferences related to roommates or private room may be available.

Individuals must be aware of the process to request a different roommate or to change from a shared to a private room

Specific Licensing Rule Citations: R 400.1407(2)(c), R 400.14301(2)(c)

ACCESS TO EARNED AND UNEARNED INCOME

The HCBS Final Rule requires that individuals be able to control their own resources including personal funds.

State licensing rules do not permit a licensee to restrict access to earned income. A provider may offer a safe location for a participant to store earned income, but the provider must make provisions for individuals to access their earned income when desired as part of this arrangement. This arrangement does not conflict with the requirement under the HCBS Final Rule for individuals to be able to control their own resources.

Specific Licensing Rules Citation: R. 400.1407(5), R 400.14301(6)(k), R 400.14315(3), and R 400.1421

MODIFICATIONS

Any modifications to the HCBS settings requirements needed by an individual must be supported by a specific assessed health and/or safety need and justified in the person-centered plan.

The following must be documented in the plan:

- Identify a specific and individualized assessed safety or health related need
- Positive interventions and supports used prior to modification
- Less intrusive methods tried
- Describe the condition that is directly proportionate to the specified need
- Regular collection and review of data to review effectiveness
- Established time limits for periodic review to determine if modification is still needed
- Informed consent of the individual
- Assure interventions and supports will cause no harm

Federal Regulation 42 CFR §441.530

AFC – RESIDENT CARE AGREEMENT

Michigan Department of Human Services
Division of Adult Foster Care Licensing and Home for the Aged Licensing

Resident Name:	Name of Home:	License Number

This agreement to provide adult foster care for (resident's name) _____ **is made between (licensee name)** _____ **and (resident/resident's designated representative)** _____ .

- This agreement is required to be completed at the time of a resident's admission, reviewed annually, and updated as needed to reflect changes.
- This agreement is to be completed by the licensee in cooperation with the resident or his/her designated representative and the responsible agency, if applicable, **Designated representative means** that person or agency which has been granted written authority, by a resident, to act on behalf of the resident or which is the legal guardian of a resident. **Acceptable written authority includes** orders of guardianship or conservatorship, powers of attorney, durable powers of attorney, or other documents executed by the resident that specify the relevant scope of authority. If a resident's designated representative signs this agreement, a copy of the signer's written authority is to be maintained in the resident's file at the AFC home.
- A resident shall be provided care and services as stated in this resident care agreement and the resident's assessment plan.

This agreement constitutes the fee policy statement required by Family Home Rule 400.1407(11), if applicable.

RESIDENT OR DESIGNATED REPRESENTATIVE CHECK ALL BOXES BELOW THAT APPLY:

☐ I have received a copy of the house rules (if applicable) and agree to follow them.

☐ I agree to provide all required resident information to the licensee, including a current health care appraisal, at the time of admission, annually and as the resident's condition changes.

☐ I agree to participate in all required fire and emergency drills, as determined by BCAL and the licensee.

☐ I have signed and received a copy of the home's refund agreement. (GROUP HOMES ONLY)

☐ I have received a copy of the home's discharge policy and agree to follow those procedures. (GROUP HOMES ONLY)

☐ I agree ☐ I do not agree to receive assistance in bathing, dressing, or personal hygiene by a staff member of the opposite sex, if a member of the same sex is not available.

☐ I agree ☐ I do not agree to entrust the following to the license for safekeeping, if this option is available:
☐ Funds ☐ Valuables (specify) _____

☐ I agree to have the licensee manage funds and account for financial transactions on my behalf. Expenditures of my personal funds over the amount of $ _____ require my prior written approval.

☐ I agree to pay the licensee the agreed upon fees for the services designated.

☐ I agree to pay the basic fee of $ _____ on a _____ basis.
daily, week or monthly

The basic fee includes the following basic services:

_____

_____

_____

and are further described in the resident's assessment plan, and attachment _____ , if applicable.

☐ The basic fees do not include any transportation services.

☐ The basic fees include the following transportation services.

_____

_____

☐ Transportation fees are charged as follows:

_____

and are further explained in attachment _____ , if applicable.

☐ I agree to additional services according to the fee schedule contained in attachment _____. Such additional services may include but are not limited to: _____

_____

_____

_____

_____

☐ If applicable. I have read the attachments relating to fees and agree with the terms and conditions established therein, I further acknowledge that additional services are available for additional fees as described in attachment _____.

BY MY SIGNATURE BELOW, I AFFIRM THAT:

This home is licensed by the Department of Human Services to provide foster care to adults.

I have provided the resident with a copy of the AFC Resident Rights and agree to respect and safeguard these rights.

I have provided the resident with a copy of the home's discharge policy and procedures and agree to follow them. (AFC Group Homes only.)

I have provided the resident with a signed copy of the home's refund agreement. (AFC Group Homes only.)

I agree to provide personal care, supervision, and protection, in addition to room and board, and to assure the availability of transportation services as indicated in this agreement, the resident's written assessment plan, and the resident's health care appraisal, as defined in the act.

A copy of this resident care agreement is required to be provided to the resident's guardian or resident's designated representative and also be maintained in the resident's file at the AFC home.

Attachments to this Resident Care Agreement and any other agreements or contracts with this licensee may not have been reviewed and/or approved by the department. If any contractual provision contained in an attachment conflicts with the Adult Foster Care Facility Licensing Act and/or administrative rules, the act and rules would prevail and the specific provision is not binding.

SIGNATURES

Resident	Date
Resident's Designated Representative (if applicable)	Date
Licensee/Licensee Designee	Date
Responsible Agency (if applicable)	Date

Compliments, comments and/or complaints about this licensed facility can be made by calling the licensing consultant, or at www.michigan.gov/afchfa. Additional information regarding adult foster care is also available at this website.

Complaints (only) can also be made by calling toll-free: 1-866-856-0126.

AUTHORITY: 1979 PA 218 COMPLETION: Mandatory PENALTY: Violation of Adult Foster Care Administrative Rule	Department of Human Services (DHS) will not discriminate against any individual or group because of race, re ligion, age, national origin, color, height, weight, marital status, sex, sexual orie ntation, gender identity or expression, political beliefs or disability. If you need help with reading, writing, hearing, etc., u nder the Americans w ith Disabilities Act, you are invited to make your needs known to a DHS office in your area.

Summary of Resident Rights: Discharge and Complaints

If you live in an Adult Foster Care home or Home for the Aged, you have certain rights as a resident of the home. These rights are protected under state licensing laws. Some of these rights help protect you against being wrongfully discharged from your home. This document provides an overview of some of your rights as a resident of an Adult Foster Care home or Home for the Aged. For this document, a
licensee is another name for the property owner.

Disclaimer: You may have additional rights as a resident of a licensed setting. Your full rights are outlined in the state licensing rules, which can be reviewed at http://www.michigan.gov/lara >> Community and Health Systems >> Covered Providers >> Adult Foster Care >> Licensing Rules and Statutes.

Written Agreement

The licensee must sign a written agreement with you, which must include:

- A list of services that you will receive in the home
- A description of your rights and responsibilities as a resident
- A description of the process for being admitted and discharged from the home
- A description of the fees that you must pay as a resident of the home

The licensee must provide you with copies of the written agreement, and the "Admission and Discharge Policy" for the home.

Discharge and Complaint Process

The licensee can only discharge you from the home for certain reasons. The licensee must follow a specific process to discharge you. If you believe that the licensee wrongfully discharged you from the home, you may contact the Department of Licensing and Regulatory Affairs to file a complaint. The Department may be able to help you return to your home. The discharge and complaint process is outlined on Page 2.

SIGNATURE

If the licensee provided you with a copy of this document, please sign below:

Name: _____ Signature: _____ Date: _____
Parent/Guardian: _____ _____ Signature: _____ Date: _____

SUMMARY OF RESIDENT RIGHTS: DISCHARGE AND COMPLAINTS

Discharge and Complaint Process Chart

Type of Home	Adult Foster Care: Family Home	Adult Foster Care: Small or Large	Adult Foster Care: Congregate Home	Home for the Aged
Regular Discharge Process	The licensee must notify you 30 days in advance of the discharge date. The notice must be written and include a reason for discharge. You must be given a copy of the notice.	The licensee must notify you 30 days in advance of the discharge date. The notice must be written and include a reason for discharge. You must be given a copy of the notice.	The licensee cannot discharge you without adequate preparation. The licensee must prove that discharging you is "in your best interest." This	The licensee must notify you 30 days in advance of the discharge date. The notice must be written and include a reason for discharge. You must be given a copy of the notice.

Emergency Process (When there is substantial risk to: (1) you; (2) other residents; (3) the provider; or (4) the property.)	The licensee must provide you with written notice at least 24 hours in advance. This notice must include an appropriate reason for emergency discharge. The licensee must receive written approval from you, your designated representative, or service agency before discharging you from your home.	The licensee must provide you with written notice at least 24 hours in advance. This notice must include an appropriate reason for emergency discharge. The licensee cannot discharge you without: (1) receiving approval from the responsible agency or Adult Protective Services; AND (2) finding another setting that can meet your needs.	decision must take your expressed wishes into consideration. The licensee must provide you with a written notice with a reason for discharge. During discharge, your responsible agency or the Michigan Department of Health and Human Services must work with you to update your service plan.	The licensee must provide you with written notice at least 24 hours in advance. The licensee must also notify the Department of Licensing and Regulatory Affairs and Adult Protective Services before discharging you. The licensee cannot discharge you without finding another setting that can meet your needs.
Complaint Process	If you believe that the licensee has wrongfully discharged you from your home, you can file a complaint online (http://www.michigan.gov/lara/ > Community and Health Systems > Camps > Online Complaint Form) or by phone (866-856-0126).			

HCBS Rules Modifications Checklist for POS

In order to monitor compliance with Home and Community Based Services Rules for all individuals served, the following information will be added to all Plan of Service documents - Section 2 : Health & Safety. Majestic will only print those items checked with contents of text box for explanations.

A. Does Individual reside in a General AFC or licensed residential setting? ☐ Yes ☐ No
(If no – this section will not show) (If yes, section opens up for the following item A.1 – A.4)

A.1 HCBS Rules Compliance for Residential Settings: *(Required if yes indicated above)*
Individual's Choice in Living Arrangements: *(check all that apply)*
☐Residential Site ☐Roommate ☐Housemate(s) ☐Residential Staff
☐Agency providing residential programs & supports

A.1.a Comments Regarding Choice of Providers, Settings, Housemates and Roommate:

A.2 Residential Agreement or Lease: **This document explains how discharge happens and what to do.**
☐ On File Dated _____ ☐ New One Requested/In Process

A.3 Transportation Accessibility: What plans are in place to access the community more than once per week?
(Check all that apply) ☐ Public ☐CMH ☐Home Staff ☐Other:

A.3.a Comments Regarding Transportation Accessibility:

A.4.0 Are HCBS Rules Modifications Required: ☐ Yes ☐ No
(If no – this section will not show) If yes, section opens up for the following required items A.4.1 – A.4.3):

A.4.1 Access Limitations (*Check all that apply)*

☐ Within the home (ID specific rooms within the home)	(add text box)
☐ Outside the home (ID areas: porch, yard, etc.).	(add text box)
☐ In the community	(add text box)
☐ No locks: ☐bedroom ☐ bathroom ☐ Other	(add text box)
☐ Gates/barriers/physical barriers:	(add text box)
☐ Cameras, video/audio monitors:	(add text box)
☐ Other:	(add text box)

A.4.2 Limitations/Restrictions for Personal Choices and Availability: *(Check all that apply)*

☐ Food (what & when & with whom to eat)	(add text box)
☐ Visitors (when & where friends/family)	(add text box)
☐ Personal funds (access & control)	(add text box)
☐ Schedule of leisure, other appointments	(add text box)
☐ Telephone, computer, communication device	(add text box)
☐ Legal activities (voting, etc.)	(add text box)

A.4.3 Positive Interventions and supports used prior to modification(s): *(Only if Limitations checked above.)*

B. Does the person receive the following services from a Non-Residential Provider? (Check all that apply)

☐ CLS ☐ Skill Building ☐ Supported Employment ☐ No

(If no – this section will not show) (If yes, section opens up for the following required items B.1-B.4)

B.1 Comments Regarding Choice of Non-Residential Providers & Staff:

B.2 Transportation Accessibility: What plans are in place to be able to access the community?

(Check all that apply) ☐ Public ☐CMH ☐Home Staff ☐Other

B.2.a Comments regarding Transportation Accessibility:

B.3 Planned activities for Community Involvement: *(Check all that apply)*

☐Family ☐Community Members ☐Friends/Neighbors ☐Other

B.3.a Comments regarding Community Involvement:

B.4 Employment Skills and Abilities Assessment or Employment Plan: *(Only if Supported Employment selected above*) (If not, this question will not show)

☐ On File Dated _____ ☐ New One Requested/In Process

B.5.0 Are HCBS Rules Modifications Required: ☐ Yes ☐ No

(If no – this section will not show) (If yes, section opens up for the following required items B.5.1 – B.5.2):

B.5.1 Access Limitations (*Check all that apply)*

☐ In the community	(add text box)
☐ Room or area within/outside the setting	(add text box)
☐ Gates, locked doors, physical barriers	(add text box)
☐ Cameras, video/audio monitors:	(add text box)
☐ Other:	(add text box)

B.5.2 Limitations/Restrictions for Personal Choices and Availability: *(Check all that apply)*

☐ Meal/snacks (when & where to eat)	(add text box)
☐ Personal funds (access & control &/or paycheck procedure)	(add text box)
☐ Visitors (when & where friends/family)	(add text box)
☐ Work/Activity schedule (integrated, breaks)	(add text box)
☐ Other:	(add text box)

B.5.2 Positive Interventions and supports used prior to modification(s): *(Only if Limitations checked above.)*

CWN Minimum Training Requirements Contract Providers

Source Document Key

1. BALANCED BUGET ACT (BBA)
2. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
3. DEFICIT REDUCTION ACT (DRA)
4. MICHIGAN DEPT. OF HEALTH AND HUMAN SERVICES (MDHHS)
5. MICHIGAN ADMINSTRATIVE CODE
6. MICHIGAN MENTAL HEALTH CODE
7. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)
8. CODE OF FEDERAL REGULATIONS (CFR)

Renewal Key:

I = Initially

A = Initially + Annually

2 = Initially and Every Two Years

TRAINING	TIMELINE TO COMPLETE	REQUIREMENT SOURCE	Professional Services	Medical Professional	Aide Level Staff	Case Holder[1]	Individual/Group Therapist
Advanced Directives	Within first 90 days	1				I	I
Appeals and Grievances	Within first 90 days	1, 4, 6	A	A		A	A
CAFAS and/or PECFAS	Within first 90 days	4				2	2
Corporate and Regulatory Compliance	Within first 90 days	1, 3	A	A	A	A	A
First Aid	Within first 30 days	5	A		2		
CPR	Within first 30 days	5	A		2[2]		

[1] Case managers, supports coordinators, home based staff, wraparound

[2] If licensed setting only

Created FY18

Updated 5/2/2018 EK

TRAINING	REQUIREMENTS	SOURCE	Professional Services	Medical Professional	Aide Level Staff	Case Holder[1]	Individual/Group Therapist
Cultural Competency and Diversity	Within 90 days	4,6,8	A	A	A	A	A
Environmental Safety	Within 90 days	5,6	I	I	I	I	I
Blood Borne Pathogens/Infection Control	Within 30 days	5,6,7	A	A	A	A	A
HIPAA Privacy and Security	Within 30 days	2,4,5,8	A	A	A	A	A
Limited English Proficiency (LEP	Within 90 days	1,4	A	A	A	A	A
Medication Administration	Within 90 days	5			I – *If necessary*		
Non-Physical Interventions	Within 90 days	8			I-*if necessary*	I	I
Person/Family Centered Planning	Within 30 days	4,6,8	A	A	A	A	A
Recipient Rights	Within 30 days	4,5,8	A	A	A	A	A

[1] Case managers, supports coordinators, home based staff, wraparound

Created FY18

Updated 5/2/2018 EK