HCBS Settings Residential Program Assessment

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Introductions and Overview

Raná Meehan
&
Amber Vanderwarker
NYS Office of Mental Health
Bureau of Housing Development and Support

WELCOME!
CMS Home and Community Based Services

• 1115 Waiver Demonstration
• State Transition Plan
Health and Recovery Plan (HARP)

What are HARPs?
And
Who is eligible for HARPs?
Home and Community Based Services (HCBS)

- **Rehabilitation**
  - Psychosocial Rehabilitation (PSR)
  - Community Psychiatric Support and Treatment (CPST)
- **Crisis Intervention**
  - Short-Term Crisis Respite
  - Intensive Crisis Respite
- **Habilitation**
- **Empowerment Services/Peer Supports**
- **Support Services**
  - Family Support and Training
  - Non-Medical Transportation
- **Individual Employment Support Services**
  - Prevocational Services
  - Transitional Employment Services
  - Intensive Supported Employment
  - On-Going Supported Employment
- **Educational Support Services**
- **Self-Directed Services**
Federal Settings Rule

The CMS Final Rule requires that all home and community-based settings meet certain qualifications. These include that the setting:

• Is integrated in and supports full access to the greater community;
• Is selected by the individual from among setting options;
• Ensures individual rights of privacy, dignity, and respect, and freedom from coercion and restraint;
• Optimizes autonomy and independence in making life choices; and
•Facilitates choice regarding services and who provides them
CMS Defined Non Compliant Settings

- Nursing Facility
- Institution for Mental Diseases
- Intermediate Care Facility for individuals with intellectual disabilities
- A Hospital
- Any other locations that may have qualities of an institutional setting as determined by Secretary
Other CMS Defined Settings

CMS has also provided guidance that the following settings are presumed to have qualities of an institution:

• located in a building that is also a publically or privately operated facility that provides inpatient institutional treatment;
• located in building on the grounds of, or immediately adjacent to a public institution; or
• isolating to individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of the rules or procedures of the setting, it has the effect of isolating residents.
OMH Defined Non Compliant Settings

At this time, OMH has determined the following settings not to be compliant:

- OMH Licensed Congregate Treatment Sites (Community Residences)
- Family Care Programs
- Owned and/or operated sites located on the grounds of or adjacent to a psychiatric institution
OMH Defined Settings Requiring Further Review

- Apartment Treatment Programs
- Community Residence Single Room Occupancy Programs (CR-SRO)
- Supportive Single Residence Occupancy Programs (SP-SRO)
- Supportive Scattered-Site Housing, formerly known as Supported Housing
OMH HCBS Adult Residential Settings Program Assessment Process

• All assessments are completed electronically and will be reviewed and approved by OMH for compliance with the Federal HCBS Settings Regulation. The assessment must be submitted to OMH by January 21, 2017.

• Providers who own and/or operate Apartment Treatment, CR-SROs, and/or SP-SRO housing program sites MUST complete an assessment for each site.

• Providers who own/or operate a Supportive Housing scattered site program, MUST complete only one assessment reviewing the entire Supportive Housing program. An assessment does NOT need to be submitted for each supportive housing site.
Overview of Criteria

The assessment will assess if the following criteria are met for each housing site/program:

– Category 1: Physical Characteristics of Settings
  • Criterion 1: The Setting is NOT located near an institutional setting.
  • Criterion 2: The home is not isolating from the community and does not have the effect of isolating people from the community.

– Category 2: Policies, Procedures, and Staff Competencies
  • Criterion 3: Setting policies/procedures and practices promote rights and integration.
  • Criterion 4: Staff competencies, Training, and Interactions

– Category 3: Legal/Financial Rights and Protection
  • Criterion 5: Setting provides residents with comparable legal and financial rights as the general public
Physical Characteristics of the Setting

here  there  over there
Criterion 1: The Setting is NOT located near an institutional setting

- **Public Institution**: Setting that is the responsibility of a governmental entity over which a governmental entity exercises control. This includes, but is not limited to the following:
  - OPWDD developmental centers, OMH psychiatric centers, institutions for mental diseases, prisons, addiction centers and state run nursing homes are considered public institutions.
  - A public institution **DOES NOT** include: a medical institution (i.e., hospital including VA hospital), child care institution, publicly operated non-ICF community residences, universities, libraries, and public non-residential schools.

- Site borders institutional setting
  - "**Border**" means that the setting/site property is contiguous or touching the public institution’s property with no intervening parcel of land between the two settings/sites.
Criterion 2: The home is not isolating from the community and does not have the effect of isolating people from the community

- CMS has defined the following as settings that have the effect of isolating residents:
  - Gated Communities
  - Farmstead or disability specific farm community
  - Residential School
  - Setting is close to a potentially undesirable location
  - Buildings where 100% of the residents have a disability
  - Multiple settings co-located and operationally related (i.e., operated and controlled by the same provider) that congregate a large number of people with disabilities together and provide for significant shared programming.
Criterion 2: Continued

• Questions will review if there are characteristics of the site that cause it to be isolating from the greater community, such as:
  – Physical barriers
  – Site is not located in the community among private residences, retail businesses, banks, etc.
  – Public Signage indicates it is specifically for people with disabilities
  – Lack of Transportation
  – Surveillance Cameras in communal or private areas
  – Curfew Policies
  – Restrictive Visitor Policies
Policies, Procedures, and Staff Competencies
Criterion 3: Setting policies/procedures and practices promote rights and integration.

- Questions will assess to ensure service and support delivery practices do not isolate people with disabilities from people who do not have disabilities, and ensure service and support practices are not institutional. Examples of topics covered include:
  - Privacy in living/sleeping unit
  - Residents have a key and/or other mechanism to open front door (i.e. doorman). Also able to lock their own private living space/bathroom.
  - Full access to typical facilities in a home (i.e. kitchen dining area, laundry)
  - House Schedules vs. Individualized Schedules
  - Restriction to a person’s food choices or where/when mealtimes are
  - Freedom to decorate/change personal space
  - Choice of Roommate/Married Couples or Domestic Partners
  - Medication Policies
Criterion 4: Staff competencies, Training, and Interactions

- Questions will review if staff competencies, training, and interactions promote rights, choice, autonomy, and community engagement of residents. There is a strong focus on:
  - Person Centered Planning
  - How staff interact and communicate (written and oral) with residents
  - Staff Cultural Competency
  - Establishing an Organizational culture of community integration
  - Staff policies regarding access to private units (i.e., knocking on resident’s door)
  - Staff training on home and community based services
Legal/Financial Rights and Protection
Legal Rights

- Legal:
  - Questions will review if a resident has a legally enforceable agreement that addresses:
    - Eviction processes and appeals comparable to the jurisdiction’s tenant landlord protections and;
    - the person has been informed of and understands these rights/protections and when they would be required to relocate.

- Rights Modification
  - Any modification to a person’s right must be:
    - Supported by specific assessed need
    - Justified in the person-centered service plan
    - Documented in the person-centered service plan
  - Modification Documentation includes:
    - Specific individualized assessed need
    - Documentation that prior interventions and supports including less intrusive method have occurred
    - Ongoing data measuring effectiveness of modification
    - Established time limits for periodic review of modification
    - Individual’s informed consent of modification
    - Assurance that interventions used for the person are only for this person, and do not impact the other people living at the site.
Financial Rights

• Financial rights should include:
  – The person controls his/her personal resources and decides how to spend his/her personal discretionary funds. For example, the person's Personal Allowance is spent on items/activities of their choosing.

• For additional guidance take into consideration the following:
  – If the person earns a paycheck, are they aware that they are not required to sign it over to the provider?
  – Does the person spend or are they supported to spend their money on items/activities of their choosing?
  – If a person needs support/assistance or training with how to manage their income, is that support provided?
  – The person is provided needed supports to spend their personal allowance on activities/personal interests/goods that are meaningful to him/her;
  – The person reports that they have access to their personal allowance funds when needed to engage in activities and make purchases of their choice; and,
  – Residential staff helps the person to budget and make informed choices about purchases.
  – There is evidence through documentation the resident does not receive sufficient support to exercise their right to spend their personal allowance funds on activities/items meaningful to him/her, OR: There are unnecessary/unreasonable barriers/restrictions on the person being able to spend their personal allowance funds, without an appropriate rights modification that clearly documents all the necessary elements.
  – There is evidence that staff is making the decisions on how to spend the individual's money without regard to their needs of interests.
Electronic Assessment

• You can complete a questionnaire for each physical site or, in the case of Supportive Housing, a questionnaire for the entire agency.

• All questions are mandatory for completion of the questionnaire. The questionnaire does not have to be completed in one sitting. **There is a 15 minute time-out on the questionnaire, so whoever is completing the questionnaire should click the SAVE button every few minutes to avoid loss of data that has just been typed in.**

• Upon final submission, or if any changes are made to the Agency/Site Contact Information, an email will be generated and sent to the hcbs-residential@omh.ny.gov mailbox.
Logging In

- You will be presented with a login screen as shown below. Enter your OMH user ID and either your password or passcode from your token.
Services application V.S Settings Questionnaire

• If you have submitted HCBS services questionnaire, a pop-up will be displayed, which allows you to choose between the HCBS Services application and the HCBS Settings Questionnaire. The HCBS application is selected by default, however click the Residential Provider Assessment to submit the correct questionnaire.
Navigating the Questionnaire

When you click on Edit Questionnaire, it opens up the questionnaire for the specific site or program for editing. The following Tabs will be displayed:

- **Guide**
- **Agency/Site Info**
- **Site Settings**
- **Policies/Procedures**
- **Legal Rights**
- **Corrective Action Plan**
- **Attestation**
- **List**
- **If specific criteria is NOT met then the “Corrective Action Plan” tab will be displayed.**
Guide Tab

The Guide tab displays the Instructions to complete a HCBS Residential Settings Assessment questionnaire.

Home and Community Based Services Application

Thank you for your interest in becoming a New York State Home and Community Based Services (HCBS) provider. The purpose of this guide is to provide agencies with information regarding the Office of Mental Health’s Home and Community Based (HCBS) Settings Assessment in order to become an approved HCBS residential setting.

HCBS Settings Rule Overview
- This assessment is part of New York State Office of Mental Health’s plan to comply with the Center for Medicaid and Medicare Services (CMS) HCBS Federal Settings Rule (§441.301(c)(4) and §441.710). New York State is required to complete a statewide residential assessment to ensure individuals receiving critical behavioral health home and community based services reside in federally compliant home and community based integrated settings.

The HCBS Settings Final Rule defines the qualities that all home and community based settings must possess in order to be in compliance with the rule. This regulation requires that a home and community based setting:

- Is integrated in and supports full access to the greater community;
- Is selected by the individual from among setting options;
- Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimizes autonomy and independence in making life choices and;
- Facilitates choice regarding services and who provides them.

In addition, the regulation identifies the following as settings that do not meet the definition of being home and community based are:
- A nursing facility;
- An institution for mental diseases;
- An intermediate care facility for individuals with intellectual disabilities;
- A hospital;
- Any other locations that have qualities of an institutional setting, as determined by the Secretary.

NY’s OMH HCBS Settings Residential Assessment

Based upon the standards set forth by the federal settings regulation, OMH has pre-determined that the following OMH funded settings are in need of further review for compliance and must complete a HCBS Settings Residential Program Assessment for their agency’s residential sites:
- Apartment Treatment Programs
- Community Residence Single Room Occupancy Programs (CR-SRO)
- Supportive Single Residence Occupancy Programs (SP-SRO)
- Supportive Scattered Site Programs

The assessment for NYC providers must be submitted to OMH by September 1st, 2016.

- Providers who own and/or operate Apartment Treatment, CR-SROs, and/or SP-SRO housing program sites MUST complete an assessment for each residential site.
- Providers who own and/or operate a Supportive Housing scattered site program must complete only ONE assessment reviewing the entire Supportive Housing program. An assessment does NOT need to be submitted for each supportive housing site.

The assessment will assess if the following criteria are met for each housing site:

Category 1: Physical Characteristics of Settings
- Criterion 1: The Setting is NOT located near an institutional setting.
- Criterion 2: The home is not isolating from the community and does not have the effect of isolating people from the community.

Category 2: Policies, Procedures, and Staff Competencies
- Criterion 3: Setting policies/ procedures and practices promote rights and integration.
### Editing Agency/Site Info Tab

This tab displays both the Agency and the Site Information. All data fields bolded are required and editable to the user.

When any of the required fields are not filled in, a message similar to the one shown here is displayed.
Editing Agency/Site Info Tab

• You must click on the “Save Changes” button to save the changes made. A confirmation message is displayed upon Saving.
Site Settings/Policies and Procedures/ Legal Rights Tabs

These tabs display the set of questions which is related to the criteria being assessed. All questions must be answered for final submission.
Answering Questions

• You can select responses and save the answers. Clicking the Discard Changes button allows for undoing any changes that were made.

• When you try to navigate to another tab without saving the changes made, an alert message is displayed.
Attaching Documents

- You can browse and attach documents to support your answers. A maximum of 3 documents are allowed for each question. When you try to upload more than 3 documents, an error message is displayed.

- You can download an uploaded document to your computer.

- You can delete an uploaded document by clicking the red “X” next to the document name.
Tooltips

- Tooltips (seen here in yellow) can be displayed for each question by hovering the mouse pointer over the question.

The Setting is NOT located on, near or adjacent to an Institutional Setting

**Questions**

1. Is the Site located on the grounds of a public institution?

   A public institution means an institution that is the responsibility of a governmental entity over which a governmental entity exercises control. This includes, but not limited to the following: OPWDD developmental centers, OMH psychiatric centers, institutions for mental diseases, prisons, addiction centers and state run nursing homes are considered public institutions. A public institution DOES NOT include: a medical institution, child care institution, publically operated non-ICF community residences, universities, libraries and public non-residential schools. If the answer is yes, please include a site map and/or description as to why the site is located on the grounds of a public institution.

2. Is the site located on the grounds of a publicly or private institution?
Electronic Assessment: Important Notes

- It’s encouraged to:
  - establish a team of appropriate staff to complete the assessment;
  - to include additional supporting evidence such as maps, pictures of the setting and/or other information that provides strong evidence the setting is a community-based setting where possible.
Submitting the Questionnaire

- Submitted questionnaires are displayed in green with a Submit Date, while un-submitted questionnaires appear in pink color.
Corrective Action Plan

After submitting the Assessment, you will be given a list of *flagged areas of non-compliance*. Using this list, you must compose a compliance plan to demonstrate steps to resolve all flagged issues.

A *Compliance Plan should include*:

- Supporting documentation that shows how the site may still come into compliance.
- Action items detailing how the site will come into compliance with the flagged areas of non-compliance;
- Milestones with timelines;
- Responsible parties for implementing the action items;
- Method for tracking and monitoring the plan to ensure ongoing compliance
Attestation Form

• At the end of each survey, an Attestation Form must be submitted by the CEO/Executive Director for final submission.

• The agency Attestation is an executive declaration that the organization meets the requirement of an approved HCBS setting and has addressed any compliance issues via their attached corrective action plan.

• The Attestation Statement varies based on the Housing Type of the Site. CR-SRO, SP-SRO, and Apartment Treatment programs will include the specific site address being attested for compliance, while the Supportive Housing program will NOT include a specific site address.
Final Submission

• After signing the attestation form, you can either just save the information entered or you can submit the questionnaire by selecting the “Check this if you have completed the questionnaire”. When clicking this box the below popup is displayed which lets you confirm or cancel the submission.

• When you click on OK, if all questions are not answered, a message similar to the one shown below is displayed.
Cont. Final Submission

• Once the questionnaire is submitted, the below confirmation message is displayed and an email will be sent to the hcbs-residential@omh.ny.gov mailbox.

• Once submitted, you will be brought back to the “List” tab. You will then see the questionnaire for this site highlighted green, signifying that it has been submitted.
Cont. Final Submission

• You can click on the View Questionnaire button to view a questionnaire. Submitted questionnaires cannot be modified and are read-only. When you click on the “View Questionnaire” button, the questionnaire is displayed with all the fields as read-only.

• You can view a PDF report generated for the questionnaire when you click on the Print Entire Questionnaire button.

• After submission, you will receive a confirmation letter from OMH informing whether your program and/or site has been designated by OMH as a compliant HCBS setting, therefore allowing your residents to receive HCBS.
Checklist for Final Submission to OMH:

The final submission from Apartment Treatment, CR-SROs, SP-SROs programs to OMH should include:

• Heightened Scrutiny Assessment for each site
• Attestation signed by the provider’s Executive Director
• Additional supporting evidence such as maps, pictures of setting and/or other information
• List of non-compliant sites owned/operated by the provider (please include name of site and physical address)

The final submission from Supportive Housing programs to OMH should include:

• Heightened Scrutiny Assessment for entire program (does NOT have to be for each site)
• Supported Housing Attestation signed by the Provider’s Executive Director
OMH HCBS Adult Residential Settings Program Assessment Process

• All assessments will be reviewed and approved by OMH for compliance with the Federal HCBS Settings Regulation. The assessment must be submitted to OMH by January 21, 2017.

• Providers who own and/or operate Apartment Treatment, CR-SROs, and/or SP-SRO housing program sites MUST complete an assessment for each site.

• Providers who own/or operate a Supportive Housing scattered site program, MUST complete only one assessment reviewing the entire Supportive Housing program. An assessment does NOT need to be submitted for each supportive housing site.
When completing the assessment:

- Providers are encouraged to establish a team of appropriate staff to complete the assessment.
- Providers must have their Executive Director sign and submit the attached attestation form with all their site specific assessment to OMH.
- Providers are encouraged to include additional supporting evidence such as maps, pictures of the setting, and/or other information that provides strong evidence the setting is a community-based setting where possible. The Guidance document will indicate when a map, picture, and/or other information are needed.
- After submitting the Assessment, providers will be given a list of flagged areas of non-compliance. Using this list, providers must compose a compliance plan to demonstrate steps to resolve all flagged issues. **A Compliance Plan must include:**
  - Action items detailing how the provider will come into compliance with the flagged areas of non-compliance;
  - Milestones with timelines;
  - Responsible parties for implementing the action items;
  - Method for tracking and monitoring the plan to ensure ongoing compliance
Overview of Site Assessment Process

OMH sends Assessment access information to housing programs identified as in need of further review for compliance.

Housing providers will complete Program Assessment within 60 days of guidance receipts.

OMH will contact provider after 60 days to confirm compliance of specific sites.
What Happens Next?

• Beginning Monday, November 21, 2016 the electronic assessment will be made available.

• The user name will be your CAIRS ID and an interim password will be provided.
Q&A
Contact Us

• HCBS Mailbox: hcbs-residential@omh.ny.gov

• Amber Vanderwarker, 518-473-0067, amber.vanderwarker@omh.ny.gov