

HCBS NEW NON-RESIDENTIAL PROVIDER PROVISIONAL APPROVAL

This survey is intended to provide for initial and provisional approval to provide nonresidential HCBS services.

The purpose of the provisional approval survey is to ensure that the settings in which new providers wish to provide services to HCBS participants are not institutional or isolating in nature. Provisional approval allows PIHPs to contract with new providers who do not have a current HCBS participant receiving services in their setting. Provisional approval is required before the provision of services to an HCBS participant.

This survey is for providers who are not currently providing services to HCBS participants or for existing providers within the PIHP who are opening new settings or adding services to their array.

Providers and Individuals will receive the comprehensive HCBS Survey *within 90 days* of an individual's IPOS. The provider *must* complete this survey in order to maintain the ability to provide HCBS services. Failure to complete the provisional approval process or the ongoing approval process *will* result in the suspension of the provider's ability to provide HCBS services.

PIHPs must ensure all new providers have completed this initial survey. The individual provider survey must be available upon request of MDHHS. Providers who do not meet the initial standards, including the updated HS review standards outlined *are not* eligible to provide HCBS services to Medicaid recipients. The PIHP may reassess the provider if the PIHP determines changes have been made that result in the provider becoming compliant.

Expected respondent: The provider who has direct knowledge of the settings day-to-day supports and/or the operational and administrative activities and policies of the provider agency.

Provide the respondent's contact information for further questions

Name: _____

Position/Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Instructions: Provide a response to each question, respond based upon the policies, procedures, and physical environment of your setting. Responses to this survey and supporting information may be verified at a later date with an on-site visit.

Name of the Setting or Location: _____

Provider: _____

Address: _____

City, State, Zip Code: _____

Contact Phone Number: _____

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BCAL or NPI number): _____

Section 1: Provider Background

Type of setting (see definitions below) _____

Out of home non-vocational: Assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills; and the support services, including transportation to and from, incidental to the provision of that assistance that takes place in a non-residential setting, separate from the home or facility in which the beneficiary resides.

Supported Employment: This service is both ongoing support services and paid employment that enables the individual to work in the community. It is community-based, taking place in integrated work settings where workers with disabilities work alongside people who do not have disabilities. This service can include supervision and training, a job coach, an employment specialist, a personal assistance, or support for a consumer-run business.

Skill Building: This service will help an individual gain, keep, or improve skills in self-help, socializing, or everyday skills. It might include help with mobility, transferring, and personal care from a direct support staff. It can include preparing for work (paid or unpaid) to individuals who might have difficulty in the general workforce or who are unable to participate in a transitional sheltered workshop.

Prevocational Services: Involve the provision of learning and work experiences where a beneficiary can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated, community settings.

Community Living Supports (CLS): This service supports an individual's independence, productivity, and promotes inclusion and participation. The supports can be provided in an individual's home (licensed facility, family home, own home, or apartment) or in community settings. Community Living Supports are: Assisting, prompting, reminding, cueing, observing, guiding and/or training the beneficiary with meal preparation, laundry, household care and maintenance. Assisting with money management, non-medical care, socialization, and relationship building, transportation from the individual's home to and from community activities including participation in regular community activities, attendance at medical appointments, and shopping for non-medical services

Section 2: Physical Location and Operations of Service Providers

- A. Will the individual's services (Skill Building, Supported Employment, Community Living Supports Prevocational, and Out of Home Non-Vocational) be delivered in a setting that is separate from a hospital, nursing home, intermediate care facility, or institute for mental health treatment?

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Yes

No

During the Public Health Emergency this requirement can be met using mapping software such as google maps to verify the setting is not on the grounds of an institution. This must be documented with the documentation available for review on request.

B. Will the individual's services (Skill Building, Supported Employment, Community Living Supports Prevocational, and Out of Home Non-Vocational) be delivered in a setting that is separate from a residential school or child caring institution?

Yes

No

During the Public Health Emergency this requirement can be met using mapping software such as google maps to verify the setting is not on the grounds of an institution. This must be documented with the documentation available for review on request.

Definitions:

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID): An institution for individuals with intellectual disabilities or other related conditions, according to Federal regulations at 42 CFR 435.1009, is defined as an institution (or distinct part of an institution) that: (a) is primarily for the diagnosis, treatment, or rehabilitation for individuals with intellectual disabilities; and (b) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration for health or rehabilitative services to help individuals function at their greatest ability. [Source: CMS, "Backgrounds and Milestones: Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID)"]

Institution for Mental Disease (IMD): The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. [Source: Social Security Act, Sec. 1905. [42 U.S.C. 1396d]

Child Caring Institution (CCI): A childcare facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the institution for that purpose, and operates throughout the year

C. Will individuals receive services and supports (Skill Building, Supported Employment, Community Living Supports Prevocational, and Out of Home Non-Vocational) within their community?

Yes

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☒ No

During the Public Health Emergency this requirement can be met through the submission of the settings policies that support and encourage an individual's desire to engage the greater community. Other methods of documentation may include brochures or other printed or web-based materials that outline the services and supports provided and evidence that the services are provided in the greater community to the extent desired by the individual. This must be documented with the documentation available for review on request.

Note: If the response to any of the above questions is “No” you must continue to the next section of this document. Please review additional information below and complete the section identified for HS provisional documentation requirements.

Heightened Scrutiny Provisional Approval Documentation

If, when reviewing a setting for provisional approval, it is determined that the setting is on the grounds of an institution, additional information must be gathered to assess whether the settings is likely to be able to successfully navigate the HS process.

In order to overcome its HS status settings must be able to show:

- That they are not isolating and have policies or procedures in place that support and encourage access to the greater community
- That individuals will have full access to the setting and can move about freely
- Waiver participants have the freedom to come and go from the setting as they choose with or without support
- Waiver participants are not expected/required to receive their services and supports within the setting and that the setting assists participants in accessing their services in the community to the extent and in the manner, they prefer

Because the provisional assessment occurs before waiver participants from your region are in the setting you may have to rely upon written policies and procedures, video tours of the setting and/or information related to participants from other regions who receive services in the setting for guidance. You may also find it helpful to check the WSA HS report to determine if the provider is on HS based on their survey for a different region.

Evidence gathered in these situations must be documented and available for review upon request. Leads must request a consultation with MDHHS BHDDA HCBS team staff prior to approving a setting that will require an HS review.

Section for PIHP representative:

The Centers for Medicare and Medicaid have identified that the following settings are considered not to be Home and Community Based.

- Nursing facilities,
- Institution for Mental Disease
- Intermediate Care Facilities
- Hospitals

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- Other locations that have the qualities of an institutional setting as determined by the Secretary of HHS

Date of review _____

Has the PIHP or CMHSP reviewed the physical location of the setting?

Yes

No

During the Public Health Emergency this requirement can be met using mapping software such as google maps to verify the setting is not on the grounds of an institution. This would need to be documented with the documentation available for review on request.

Does the PIHP/ CMHSP attest that the setting is not institutional in nature and does not appear to be isolating

Yes

No

Note: If the PIHP representative believes the setting may be isolating or has the qualities of an institution the Heightened Scrutiny section below must be completed and a consultation with MDHHS BHDDA HCBS staff completed prior to approval

Additional Heightened Scrutiny Documentation: (complete the section below by checking the box corresponding to the type of evidence you have reviewed).

Please identify the evidence received and reviewed to support that the setting is not institutional or isolating and submit this document together with a consultation request prior to granting provisional approval. You do not need to submit the supporting evidence to MDHHS at this time.

Policies/procedures submitted and reviewed by PIHP lead that confirm the individuals have the following freedoms:

- Ability of waiver participants to come and go as they choose with or without support
- Ability to move freely within the setting without barriers to access public areas
- Accessible transportation is available to assist individuals who wish to access the greater community to the extent and in the manner preferred by the individual
- Waiver participants will receive services/supports in a setting where there is regular opportunity for contact with people not receiving services

Note: If, after reviewing the information gathered through the Heightened Scrutiny Provisional Approval Documentation, the PIHP representative believes the setting may be isolating or has the qualities of an institution provisional approval should not be granted and a remediation plan developed and implemented.

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Once this has been completed the PIHP may choose to complete a second provisional approval survey to determine if the settings status has changed.

By signing this document, you attest that the information provided is accurate.

X

PIHP lead or designee

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This document is intended to assist providers (those not currently providing services to HCBS participants) who have received *provisional* approval in assessment of their level of compliance with the HCBS rule. If you do not have policies and procedures as identified below you are advised that they are *required* in order to receive your first annual approval to provide HCBS services. Providers and participants will be surveyed 90 days from the individuals IPOS, and the surveys will fully assess compliance at that time.

The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community. 42 CFR 1.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)

Policies and procedures are in place that reflect the following:

The setting provides opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual

The setting affords opportunities for individual schedules that focus on the needs and desires of an individual and an opportunity for individual growth

The setting affords opportunities for individuals to have knowledge of or access to information regarding age-appropriate activities

The setting allows individuals the freedom to move about inside and outside of the setting as opposed to one restricted room or area within the setting

The setting in the community/building is located among other residential buildings, private businesses, retail businesses, restaurants, doctor's offices, etc. that facilitates integration with the greater community

The setting encourages visitors or other people from the greater community

Employment settings provide individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times and leave and medical benefits with his/her employer to the same extent as individuals not receiving Medicaid funded HCBS?

In settings where money management is part of the service, does the setting facilitate the opportunity for individuals to have a checking or savings account or other means to have access to and control his/her funds.

The setting provides individuals with contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location

The setting assures that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services

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The setting is physically accessible, including access to bathrooms and break rooms, and appliances, equipment, and tables/desks and chairs are at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting

The setting is selected by the individual from among setting options including non-disability specific settings. *42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

Policies are procedures are in place that reflect the following:

The setting reflects the individuals needs and preferences and its policies ensure the informed choice of the individual

The setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA

The setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week

The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. *42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

Policies are procedures are in place that reflect the following:

All information about individuals is kept private

The setting supports individuals who need assistance with their personal appearance to appear as they desire

Personal assistance is provided in private, as appropriate

The setting assures that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed

Policies of the setting require that staff do not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not present

The setting has policies that require the individual and/or representative grant informed consent prior to the use of restraints and/or restrictive interventions and document these interventions in the person-centered plan (modifications to the rule)

The setting has policies that ensure that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting

The setting offers a secure place for the individual to store personal belongings

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The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42

CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)

Policies and procedures are in place that reflect the following:

Policies prohibit gates, Velcro strips, locked doors, fences, or other barriers that prevent individuals' entrance to or exit from certain areas of the setting

The setting affords a variety of meaningful non-work activities that are responsive to the goals, interests and needs of individuals

The physical environment supports a variety of individual goals and needs

The setting affords opportunities for individuals to choose with whom to do activities in the setting or outside the setting

The setting allows for individuals to have a meal/ snack at the time and place of their choosing

The setting provides information on individual rights

The setting does not prohibit individuals from engaging in legal activities

The setting affords the opportunity for tasks and activities matched to individuals' skills, abilities, and desires

The setting facilitates individual choice regarding services and supports, and who provides them (42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v))

Policies and procedures are in place that reflect the following:

Individuals are provided a choice regarding the services, provider and settings and the opportunity to visit/understand the options

The setting affords individuals with the opportunity to regularly and periodically update or change their preferences

The setting ensures individuals are supported to make decisions and exercise autonomy to the greatest extent possible

Setting policies ensure the individual is supported in developing plans to support her/his needs and preferences

The setting provides information to individuals about how to make a request for additional HCBS, or changes to their current HCBS