



# Innovative State Approaches to Promoting Compliance with the Federal HCBS Settings Criteria

HCBS Technical Assistance Series, Fall 2018

Webinar 1 of 3

November 8, 2018 2:00-3:30 p.m. ET



# Agenda

- Welcome & Introductions
- Opening Remarks by CMS
- Promising Practices in Implementing the HCBS Settings Criteria (ACL)
- State Case Studies
  - Kentucky
  - New Hampshire
  - Michigan
- Q&A/Interactive Discussion



Michele MacKenzie, Technical Director for HCBS Rule Statewide Transition Plans  
Division of Long Term Supports and Services, Disability & Elderly Health Programs Group (DLTSS/DEHPG)  
Centers for Medicaid & CHIP Services, CMS

## **OPENING REMARKS**

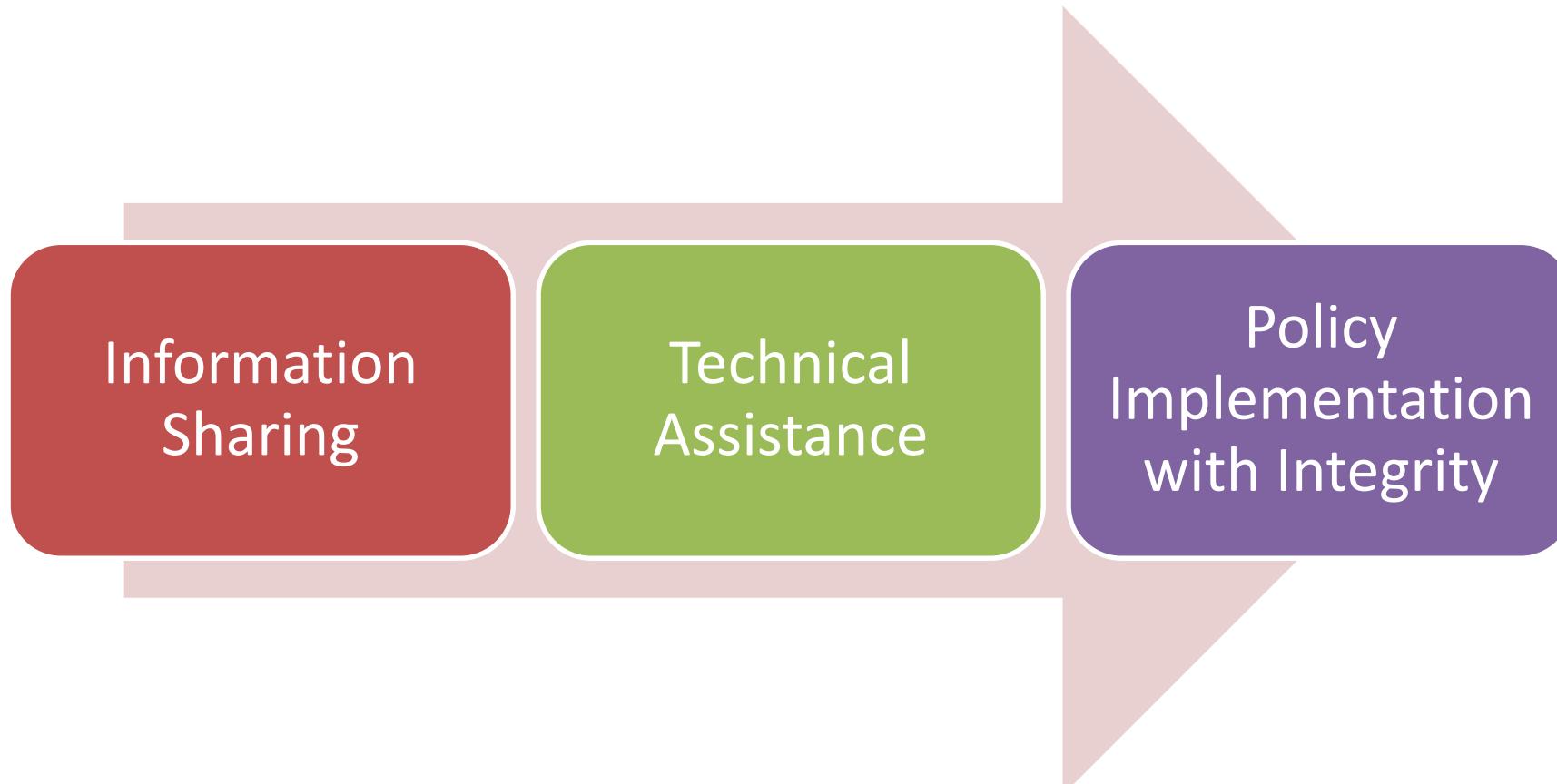


Serena Lowe, Senior Policy Adviser

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Administration for Community Living

# **PROMISING PRACTICES IN IMPLEMENTING THE HCBS SETTINGS CRITERIA**

# **ACL's Role in Supporting CMS/HHS Implementation of the Federal HCBS Settings Criteria is Central to ACL's Mission**



# Public Engagement: *Promising State Strategies*

Promising Practice	State Examples
<p><b>Minimal Requirements:</b> Full Statewide Transition Plan (STP) must be made available to the stakeholders in electronic and non-electronic <u>accessible</u> forms.</p>	All States
Provides clear, easily digestible overview of the rule and context of the state's transition process in the STP.	Pennsylvania
Virtual and in-person orientation sessions and “town-hall” like meetings across state and stakeholders. Focus groups and feedback forums early on to help inform the design of the state’s HCBS implementation strategy.	Ohio, Utah
Establishment of state working groups or committees that included equal representation of stakeholders.	Delaware; Wyoming
List of all relevant services, settings, descriptions being captured in the HCBS implementation process.	North Dakota, Iowa
Use of multi-media to broadcast and disseminate information about public comment process(es).	South Carolina
Provides clear, informative summary of public comments received, including state’s responses for how it addressed each comment or category of comments.	Alabama
Provided ongoing updated results on validation and remediation of all HCBS settings in Medicaid system.	Alaska; Oregon
Provides ongoing consumer friendly updates on state HCBS website for stakeholders to review feedback from CMS on STP, public comments submitted by stakeholders & state’s responses.	Maryland; Idaho
Published and allowed public access to all heightened scrutiny evidentiary packages submitted to CMS and/or used external stakeholder advisory group to review and provide feedback on state HS reviews.	Illinois; Kentucky
Developed easy to digest educational materials for consumers and parents/families. Also continue to host stakeholder information sharing and feedback forums, many that are specific to targeted stakeholder groups.	Idaho; Michigan; Wyoming; Virginia

# Highlighting Effective Practices in Assessing Setting Compliance: *State Examples*

Effective Practice/Strategy	State Examples
Provides clear, easy to understand listing of all HCBS authorities and categories of settings across state.	Iowa, Pennsylvania
Provided comprehensive training to providers <i>prior to</i> initiating assessment process to adequately educate them on the purpose of the assessment process	Alaska, Idaho, Minnesota, Tennessee
Worked with external stakeholders/advisory group to develop the provider and/or consumer assessment tools.	Arkansas, Arizona, Michigan, New Hampshire
Conducted an initial voluntary assessment process to get a sense of systemic trends and issues; then improved upon initial survey tools and completed a second mandatory assessment process.	Kentucky, Maryland
Developed unique comprehensive assessment tools based on type of setting and target respondent.	Colorado, Michigan, Oregon, Rhode Island, South Carolina
Clearly laid out the specific details of the state's approach to the assessment process (including sample sizes). Also discussed how the state addressed any non-respondents.	Arkansas, Oregon
Summarized assessment results in a digestible manner (based on the main requirements of the rule and additional provider-owned and controlled setting criteria) so as to inform state's strategy on remediation.	Iowa, South Dakota
Framed the assessment process as an opportunity for setting reflection, presuming there was room for improvement throughout the system.	New Hampshire, Tennessee

# Highlighting Promising Survey Tools: *State Examples*

Effective Practice/Strategy	State Examples
Includes an easily digestible cover sheet for providers to help them understand the goals of the statewide transition plan, and to encourage providers to be honest in their self-assessment without fear of recourse.	Minnesota, Rhode Island
Survey tool identifies the federal regulation and CMS guidance before each self-assessment question.	Alaska, Utah, South Carolina
Survey tool identifies regulation before each question and requires evidence and analysis to demonstrate why the setting is in compliance or not.	Colorado, Utah
Survey tools have been tailored to address specific questions of individual categories of settings (child-specific/aging; or residential/non-residential)	Colorado, Michigan, Oregon, Rhode Island, South Carolina
Combines the provider self-assessment and on-site assessment tool together and requires examples supporting the self-assessment responses and space to record observations.	Arizona
Developed a comprehensive tool that embeds several of the suggested “Exploratory Questions” published by CMS in 2015 in addition to others, and includes a range of responses to help providers and staff conducting validation activities to reflect on and be as accurate as possible in their assessments.	Maryland
Requires providers to establish a group of stakeholders (consumers, families, staff, leadership, and community partners) to help complete the self-assessment.	Louisiana, Tennessee
Survey tool has Yes/No checkboxes but requires evidence of compliance. Also presumes all settings will require some remediation, so positions the survey as a tool for informing the development of the setting-specific remediation plan.	New Hampshire, Tennessee
Each question outlines a specific requirement of the rule being focused on. There are a series of related Yes/No sub-questions with checkboxes.	South Carolina

# Highlighting Effective Practices in Validating Setting Compliance: *State Examples*

Effective Practice/Strategy	State Examples
State outlines multiple validation strategies that addressed concerns and assured all settings were appropriately verified. Validation process included multiple perspectives, including consumers/beneficiaries, in the process.	District of Columbia, Florida, Tennessee
Implemented sophisticated electronic/online survey tools to collect data from majority of beneficiaries of HCBS system, allowing access to the data and connecting the data back to individual settings/providers to inform necessary remediation steps.	Colorado, Hawaii, North Carolina, Oklahoma
Conducted 100% onsite visits of settings, relying on existing state infrastructure or creating new process/vehicle.	Multiple States
State relied on existing state infrastructure, but laid out solid, comprehensive plan for training key professionals (case managers, auditing team) to assure implementation of the rule with fidelity.	Arizona, Delaware, Tennessee
State used effective independent vehicles for validating results and/or relied on the evaluative activities of other federally-funded DD/aging networks.	Michigan, Kentucky, New Hampshire, Utah
State clearly differentiated and explained any differences in the validation processes across systems/Medicaid HCBS authorities.	Connecticut, Indiana

# Highlighting Effective Practices in HCBS Settings Remediation: *State Examples*

Effective Practice/Strategy	State Examples
State simultaneously provided a comprehensive template for a corrective action or remediation plan to all providers as part of the self-assessment process.	Arkansas Tennessee
State has outlined a process for following up with settings that require remediation to comply with the rule, including but not limited to the negotiation of individual corrective action plans with providers that address each area in which a setting is not currently in compliance with the rule.	Indiana North Dakota Pennsylvania
State has outlined a comprehensive approach to apply tiered standards to elevate the quality and level of integration of one or more categories of HCBS settings.	Indiana; Minnesota; Ohio; Tennessee
State has identified those settings that cannot or will not comply with the rule and thus will no longer be considered home and community-based after the transition period. State has also established an appropriate communication strategy for affected beneficiaries.	Ohio North Carolina
State has established strong ongoing monitoring mechanisms to assure that settings continue to remain in compliance and have access to ongoing training & technical assistance (including individual private homes).	Idaho; Connecticut; DC



A Deeper Dive into Various Innovative Approaches to State Implementation of the Federal HCBS Settings Criteria

## **STATE CASE STUDIES**

# Today's State Presenters

- Lori Gresham, Kentucky Department of Medicaid Services
- Mary St. Jacques, Institute on Disability, University of New Hampshire
- Angela Martin, Michigan Developmental Disabilities Institute, Wayne State University





# Final Rule Settings Validation

Commonwealth of Kentucky  
Department for Medicaid Services

# Ensuring Compliance Across Populations

Department for Medicaid Services (DMS) is dedicated to ensuring equity in review and compliance across all populations that are served through our 1915(c) waivers. Kentucky waivers serve individuals with IDD, aged and physically disabled, individuals with brain injuries, and individuals who are ventilator dependent.

## Interagency Representation

Kentucky has established an interagency workgroup that has been the backbone in implementing this initiative across all of our waivers. This workgroup has had representation from all of our waivers and has considered each population when decisions are made.

## Monitoring Tools

Questions utilized for monitoring compliance are the same across monitoring agencies. Also the guidance provided to each entity is the same. We are also in the process of developing enhanced training for our auditors to ensure that the monitoring is equitable across populations.

## Stakeholder Involvement

DMS has improved its stakeholder engagement strategies over the last couple of years. We have strategies that ensure that every population has equal opportunity and access to provide comments and interaction with DMS and its sister agencies.

# Monitoring – New Providers & Settings

Based on CMS guidance, DMS distributed a provider letter in May 2016 that any new provider or new setting rendering Medicaid HCBS that opens after July 1, 2016 must be fully compliant with the HCBS Final Rules, per state requirements. This was in response to guidance released from CMS regarding new construction.

## Location

- While compliance with many of the HCBS Final Rules components cannot be determined until the provider/setting is operational, staff will evaluate if the new provider/new setting location is permissible
- The following locations are not permissible for any provider:
  - Settings in a publicly or privately operated facility providing inpatient treatment
  - Settings on the grounds of or adjacent to a public institution
- For providers who currently operate settings and are opening new settings, the new setting should not be attached to, border, or be across the street from the existing setting(s)

## On-Site/Policy Review

- Some components of the HCBS Final Rules can be evaluated through on-site or policy reviews (locks, accessibility, visitor policy)
- When possible, staff will evaluate provider policies and conduct an on-site review to determine compliance with some of the HCBS Final Rules

# Monitoring – Operational Providers & Settings

DMS has included additional provider staff and participant questions to existing onsite surveys to capture information related to the HCBS Final Rules. All settings will be evaluated with these survey questions.

Purpose	Content	Uses
<ul style="list-style-type: none"><li>The additional survey questions allow CHFS to collect information about the current compliance of providers and settings with the HCBS Final Rules</li><li>These questions will be added to regular monitoring tools and used in interviews with participants and staff</li></ul>	<ul style="list-style-type: none"><li>The survey questions relate to the settings components of the HCBS Final Rules and focus on the experiences of the participants</li><li>Compliance with some of the settings requirements can be observed by CHFS staff (e.g., freedom to decorate their living unit) and will not require a survey question to determine compliance</li></ul>	<ul style="list-style-type: none"><li>Survey responses will be logged by CHFS and used to identify trends or areas where technical assistance may be needed</li><li>Aggregated data will allow CHFS to track provider progress in coming into compliance over time</li></ul>

Thank you for the opportunity to speak with you today. If you have questions please do not hesitate to reach out.

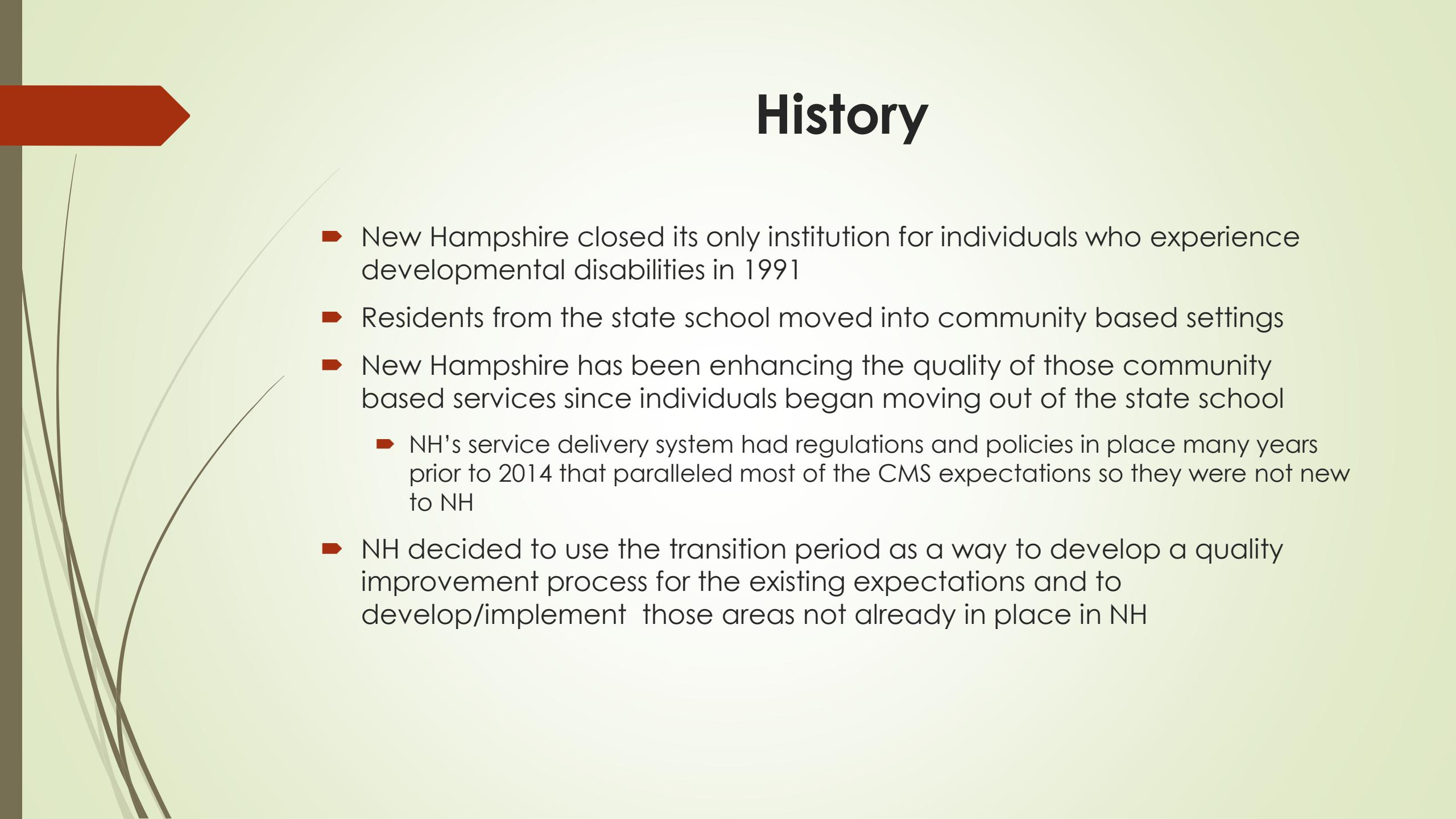


Email

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# New Hampshire's approach to compliance



# History

- ▶ New Hampshire closed its only institution for individuals who experience developmental disabilities in 1991
- ▶ Residents from the state school moved into community based settings
- ▶ New Hampshire has been enhancing the quality of those community based services since individuals began moving out of the state school
  - ▶ NH's service delivery system had regulations and policies in place many years prior to 2014 that paralleled most of the CMS expectations so they were not new to NH
- ▶ NH decided to use the transition period as a way to develop a quality improvement process for the existing expectations and to develop/implement those areas not already in place in NH



# HISTORY (CONT'D)

- ▶ Steps taken:
  - ▶ Identified an interdisciplinary leadership team to facilitate the process
  - ▶ Created an Advisory Task Force (ATF) of stakeholders to support the development/implementation of the transition process
- ▶ NH recognized that there were three areas that were out of compliance for every setting for individuals supported through the state's developmental disabilities waiver. The areas were:
  - ▶ Lack of lease/tenancy agreement
  - ▶ Lack of documentation in the person centered planning document about choices given and choices made for service providers
  - ▶ Lockable doors



# Process

- ▶ NH decided to complete on-site visits to a statistically significant number of sites in each type of setting (residential/non-residential) to obtain baseline information which would identify focus areas for the statewide transition plan (STP)
  - ▶ Each on-site visit included an interview with the participant and the provider
  - ▶ The visits showed that there were pockets of excellence around the state, but there were also areas for improvement
- ▶ NH created goals for all of the CMS expectations recognizing the importance of participants having choice, control and a quality of life equal to non-waiver participants
- ▶ Although NH identified that there were zero settings in full compliance, it was felt that the implementation of the STP would bring all settings into compliance by the deadline



# How would compliance be achieved?

- ▶ NH's approach is collaborative and the WTT, ATF, and the providers of services are all working together
  - ▶ The WTT team is accessible to providers, participants and stakeholders for questions, attending meetings, etc.
- ▶ NH's focus has been building upon systems already in place:
  - ▶ Developed a standard template for the person-centered planning process that includes the CMS expectations within the document and can be used as a monitoring system (allows for data collection/reporting)
  - ▶ Developed mandatory in-person and on-line training for various roles that support participants, providers and families (initial and yearly)
  - ▶ Incorporated CMS expectations into the monitoring visits completed by the state's certification & licensing unit (data collection/reporting/trending)
  - ▶ Quarterly meetings with the ATF (updates on state's progress)



# How will we know that all settings are in compliance?

- ▶ NH will do a re-evaluation of settings in early 2021. The process will include:
  - ▶ Participant survey
  - ▶ Provider survey/self-assessment
  - ▶ Data collected over the transition period will validate surveys. Data will be more comprehensive than a one-time snapshot and will include:
    - ▶ Satisfaction surveys
    - ▶ Complaint data
    - ▶ Certification data
    - ▶ Employment data
  - ▶ Identify areas of concern for follow-up, as applicable:
    - ▶ Systemic areas
    - ▶ Provider specific



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# Michigan's Transition to Compliance with CMS HCBS Rule



**Michigan Developmental  
Disabilities Institute**

**Community Service**

**Education**

**Research**

**Dissemination**

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Amal Alsamawi, MPH  
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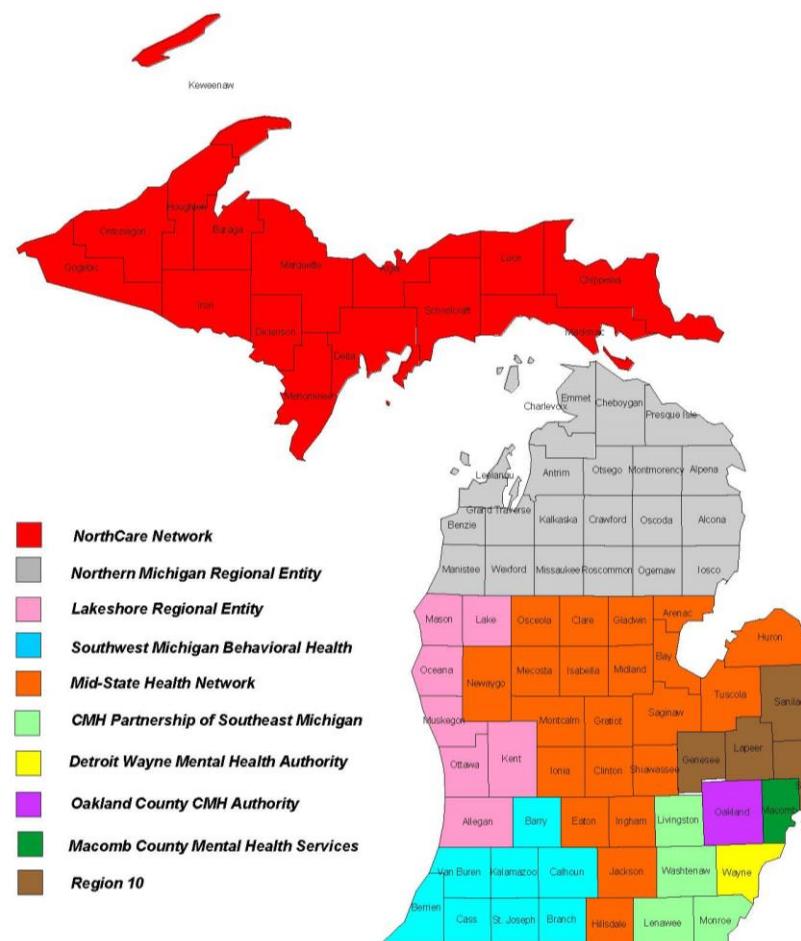


**WAYNE STATE  
UNIVERSITY**



# Michigan: The Great Lakes State

## Michigan PIHP Map



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# Development of Michigan's Statewide Transition Plan

- Michigan must assess all settings under 1915 (c), (i), and (k) authorities for compliance with the rule.
- Currently Michigan delivers HCBS services under a 1915 b/c waiver
  - B Waiver: Managed Care Behavioral Health Services\*
  - C Waivers: Habilitation Support Waiver\* (individuals w/IDD), MI Choice Waiver, MI Health Link
- Provide technical assistance to a local community mental health agency with correction action planning

\*MI-DDI involved in data collection for the waivers.

# Development of Michigan's Statewide Transition Plan (2)

## Survey Domains



### Community Integration

Individuals can fully participate in community life.



### Rights

Individuals are treated with dignity and respect.



### Privacy

Individuals control when and with whom they want to share their personal space, conversations, and information.



### Choice and Control

Individuals can control their choices about where they receive their services, who provides their services, and how they want to spend their days, based on their own needs and preferences.



### Freedom of Access

Individuals can access all areas of their home and community to the same extent that others without disabilities are able to.

# Habilitation Supports Waiver

## C Survey Methodology

The survey focused on all HSW beneficiaries (n=5,720) and their residential (n=3,207) and non-residential (n=2,315) providers.

The survey process was implemented in two phases (Phase 1: May-August 2016; Phase 2: November 2016-March 2017).

The survey was conducted through a web-based system (*Qualtrics*).

Survey instruments and methodology were pilot tested with 10% of the beneficiary population in 2015.

# Managed Care Specialty Services & Supports Waiver

## B Survey Methodology

The survey included all B3 beneficiaries (n=14,561) and their skill building, supported employment and community living services providers (n=18,447).

The survey process was implemented in one phase between July 2017-January 2018

The survey was conducted through a web-based system (*Qualtrics*).

Survey instruments were pilot tested with beneficiaries in 2017.

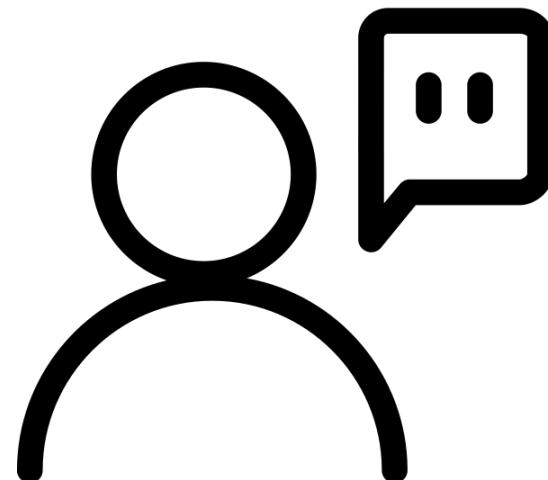
# Survey Results

- Only complete surveys were included in the analysis.
- A survey is considered complete if the beneficiary and provider surveys were received.



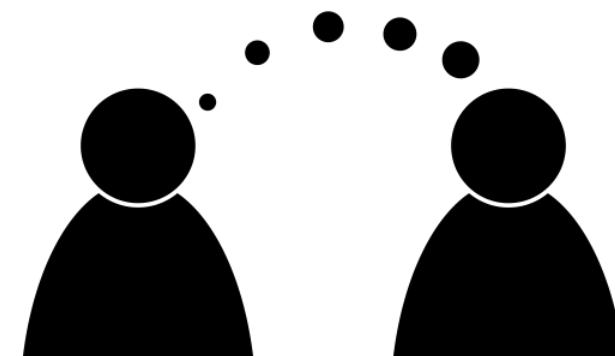
# Public Engagement

Submitted public  
comments on the state  
transition plan



Created by Shital Patel  
from Noun Project

Education and outreach to  
individuals with disabilities,  
family members



Created by Marie Van den Broeck  
from Noun Project



# Education and Information Materials

- a. One-page Factsheet
- b. Individual/Beneficiary and Family Member/Friend/Guardian PowerPoint Presentations **without** Presentation Notes
- c. Individual/Beneficiary and Family Member/Friend/Guardian PowerPoint Presentations **with** Presentation Notes
- d. Individual/Beneficiary Booklet
- e. Handouts (2 slides per page for each audience: Individual/Beneficiary and Family Member/Friend/Guardian)
- f. Heightened Scrutiny
- g. Infographics: Survey Findings

# Education and Information Materials: Individual/Beneficiary



**Home and Community Based Services Rule: Michigan's Transition to Compliance**

**What is the Home and Community Based Services (HCBS) Rule?**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) announced a Final Rule on HCBS. HCBS are Medicaid services for people with disabilities to help them live in their own homes and communities.

**Why is the Rule Important?**

It will:

- Ensure individuals who have disabilities have the same access to the community as individuals who do not have disabilities.
- Allow individuals the opportunity to make decisions about the services they receive and who provides their services.

The goal of the HCBS Final Rule is to make sure that the services individuals receive provide the opportunity for independence in making life decisions, to fully participate in community life, and to ensure that individuals' rights are respected.

**How does this impact my life or my services?**

You should start thinking about how you want your services to support you. You are the expert when it comes to your life.

**When will the new rule happen?**

The State of Michigan will work with individuals and their service providers to prepare for the new rule. The deadline to come into compliance is March 2015.

**2014 Service Information**  
Michigan Department of Health and Human Services, Home and Community Based Services Division  
734-347-3942/394704-300000  
Service Information booklet, request this service - Michigan Home and Community Based Services Transition Project. <http://ddi.wayne.edu/hcbs.php>

Factsheet

**HCBS Final Rule Community Outreach – Individual**

**What Does the Home and Community Based Services Rule Mean for You?**

**MICHIGAN DDI**  
Michigan Developmental Disabilities Institute  
Wayne State University

**MDHHS**

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PowerPoint

**Home & Community Based Services Transition**

**What Does the Home and Community Based Services Rule Mean for You?**

**MICHIGAN DDI**  
Michigan Developmental Disabilities Institute  
Wayne State University

**MDHHS**

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Booklet

# Implementation: Training Course for PIHPs

- Designed online learning course
- Trained and provided technical assistance through B survey
- Goals for the HCBS Course:
  - a. Prepare, distribute, and manage HCBS surveys using Qualtrics.
  - b. Implement and monitor the distribution of the B survey to beneficiaries and providers.

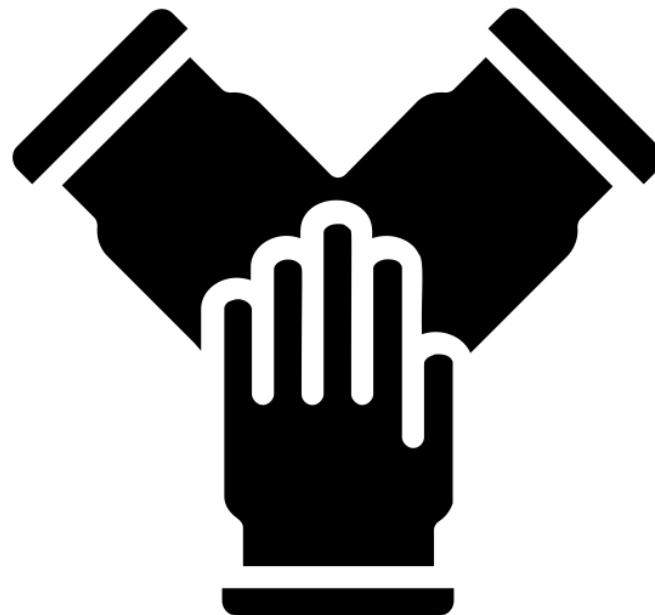
The screenshot shows the Moodle course interface for 'HCBS 'B' Survey Training'. The left sidebar lists course modules: Welcome to the PIHP Leads HCBS Course in Moodle, Module 1: What is the HCBS Transition Project?, Module 2: Introduction to Using Qualtrics Survey Software, Module 3: Pre-Survey Implementation Preparation, Module 4: Survey Implementation, and Module 5: Post-Survey Implementation and Data Analyses. The main content area displays the first module's introduction, titled 'Welcome to the PIHP Leads HCBS Course in Moodle', with a sub-section 'Part 1: Introduction to using Moodle and the HCBS Leads Course Modules'. Below this is a video player showing a YouTube video titled 'Introduction to Moodle' by Michael Bray, M.A., Ed.S., affiliated with the Michigan Department of Health and Human Services, Behavioral Health and Developmental Disabilities Administration. The video has a play button and a YouTube logo.

# Implementation: Technical Assistance for PIHPs

- **Moodle & Canvas** (learning management systems):
  - Electronic resources
  - Training videos
  - Quizzes
  - Forum
- **Zoom** (web-conferencing software):  
Hosted monthly webinars to assist PIHP Leads with survey implementation
- **Face-to-Face Meetings:**
  - State agency hosts monthly meetings with PIHPs' HCBS Leads
  - MI-DDI attends meeting bi-monthly to assist with survey issues and/or implementation
- **Direct technical assistance:** MI-DDI provided on-going, individualized technical assistance to PIHPs, as requested, by email or telephone

# Partnerships

Collaborate with Michigan DD Act partners (P&A, DD Council), The Arc Michigan, and other disability advocates



Created by ProSymbols  
from Noun Project

# Funding for Efforts

- Contracted by Michigan Department of Health and Human Services, Behavioral Health and Developmental Disabilities Administration
  - Survey tool development
  - Data Collection
  - Development of education and outreach materials
  - Technical assistance to state agency & managed care behavioral health regional contractors
  - Training to managed care behavioral health regional contractors
- Contracted by a local community mental health agency for technical assistance with Correction Action Planning

# Contact Information



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Website: [www.ddi.wayne.edu](http://www.ddi.wayne.edu)

Home and Community Based Services Transition

Website: <https://ddi.wayne.edu/hcbs>



Interactive Discussion via Chat-Box

# **Q&A**

# HCBS Resources

- **Main CMS HCBS Website:** <http://www.medicaid.gov/HCBS>
  - Final Rule & Sub-regulatory Guidance
  - A mailbox to ask additional questions
  - Slides/Materials from previous TA Calls
  - HCBS Toolkit for State Implementation
  - Status of each state's transition plan & heightened scrutiny
- **Exploratory Questions**
  - [Residential Settings](#)
  - [Non-Residential Settings](#)
- **ACL HCBS Webpage (Coming Soon):** <http://www.acl.gov/>
- **Advocacy Toolkit:** <http://hcbsadvocacy.org>

# Contact Information

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