



REVISED as of April 30, 2021

**Wisconsin Department of Health Services (State Medicaid Agency)
Statewide Transition Plan for Compliance with the
Medicaid Home and Community-Based Services Settings Rule Requirements of the
Medicaid Home and Community-Based Services Final Regulation
(CMS 2249-F/2296-F)**

Introduction and Background

Background and applicability: The Wisconsin Statewide Transition Plan was developed by the Department of Health Services, the State Medicaid Agency (SMA), in accordance with the Medicaid Home and Community-Based Services Settings Rule Requirements of the Medicaid Home and Community-Based Services Final Regulation at CMS 2249-F/2296-F. The statewide transition plan laid out in this document applies to the Medicaid Home and Community-Based Services (HCBS) waivers under § 1915(c) of the Social Security Act that provides the authority for the Children's Long-Term Support (CLTS) Waiver Program, the IRIS (Include, Respect, I Self-Direct) program, the Family Care program, and the Family Care Partnership program.¹

This statewide transition plan is intended to supersede the waiver-specific plans that were approved by the Centers for Medicare and Medicaid Services (CMS) for the IRIS and Family Care/Family Care Partnership 1915(c) waivers. Reflected in the following plan, the SMA has identified opportunities to align and combine many of the activities described in those plans. This is critical since many settings and providers serve individuals in more than one of the waivers listed above. The SMA will replace the waiver-specific plans with the statewide transition plan at the next amendment or renewal of those waivers. The CLTS Waiver program does not have approved waiver-specific plans and will follow the statewide transition plan.

Assessment of compliance: Wisconsin is using a multi-phase process to assess and ensure continuing compliance with the HCBS settings rule requirements for both residential and nonresidential settings. This approach includes:

- I. A preliminary review of all waiver services and settings in which they are typically provided to determine whether or not the setting is subject to additional review (that is, provider self-assessment and validation) under the rule.
- II. An assessment of the regulatory and policy framework for both residential and nonresidential settings, and identification and implementation of systemic remediation actions.
- III. Provider self-assessment
- IV. Review and validation of the provider self-assessment responses through site visits and examination of assessment responses by the SMA.
- V. Identification and completion of site-specific remediation by providers.
- VI. Ongoing monitoring, to include re-evaluation of settings at routine intervals.
- VII. Implementation of the heightened scrutiny process.
- VIII. Plan to relocate participants or discontinue waiver funding
- IX. Timeframes and milestones
- X. Public input

¹ The waivers covered by this plan are: WI.0367 (Family Care); WI.0414 (CLTS); and WI.0484 (IRIS). The plan originally also covered WI.0154 (COP-W) and WI.0229 (CIP-W), but these waivers have been terminated.
P-01839 (04/2021)

I. Preliminary review and assessment of services and settings

The SMA conducted a preliminary review of all existing home and community-based services and the types of settings in which each service is typically provided. The SMA further evaluated these setting types for their consistency with HCBS characteristics identified in the rule and classified as:

- Yes—the setting has HCBS characteristics.
- No—the setting is not home and community-based.
- The setting type is subject to further assessment by the state.

A list of services and typical settings is found at Appendix 2. Some services are closely tied or synonymous with specific settings while others can occur in various settings based on the needs of the program participant. SMA staff, with knowledge of waiver services and the settings in which they are provided, reviewed each service and determined the typical settings for all waiver services. The different settings were then compiled across all services, and the types of settings were reviewed to determine which were settings that serve primarily people with disabilities and which were natural community settings that were not specific to people with disabilities. All waiver services are provided in one or more of the settings that are identified in this document.

The SMA has made this assessment for all 1915(c) waiver programs. Per the final rule, a participant's private residence, including the parental home for a child, is presumed to be compliant. In addition, the SMA determined that the following settings would typically meet the compliance requirements of 42 C.F.R. § 441.301(c)(4):

- Places of integrated, competitive employment.
- Community sites predominantly used by the general public for typical community activities, unless specifically prohibited by 42 C.F.R. § 441.301(c)(5), including but not limited to: retail establishments; schools; recreational and entertainment facilities; libraries; places of religious worship; public and private transportation settings such as buses, trains, and private vehicles; restaurants; community centers; professional offices; non-disability related service establishments; streets; and other public accommodations.

The following settings found in the CLTS Waiver Program also meet the requirements of the rule:

- Family's private residence, whether owned or rented.
- Child care facilities predominantly used by the general public for child care.
- Child care provider's private residence, whether owned or rented, used for child care.

The SMA has determined that the settings listed above are typically integrated in the greater community or, in the case of residences in rural settings, are the person's choice and consistent with the character of such communities; do not segregate or isolate participants, except with respect to private residences in rural areas where such is the chosen preference of the person, or his or her guardian; provide opportunities for regular interaction in daily activities with non-HCBS waiver participants; facilitate participant-centered choice in services, daily activities, and assumption of typical, age-appropriate social roles; and support rights to dignity, respect, autonomy, and freedom from coercion.

While these settings are viewed as integrated in the community, the SMA will not assume that in each instance they meet the HCBS settings rule requirements. As part of the ongoing person-centered planning process used by all waiver agencies² in Wisconsin, all settings in which waiver services are delivered, including those described above, will be assessed by the waiver agency, or other entity delegated by the SMA, to ensure that the

² The term "waiver agencies" is used throughout to refer to Managed Care Organizations, IRIS Consultant agencies and county waiver agencies.

setting is not designed in such a way that it isolates the individual from the greater community. This assessment occurs at the time of development of the initial person-centered plan and at reviews of that plan on at least an annual basis. The assessment includes periodic face-to-face meetings with the participant at the setting in question.

Per the HCBS final rule, services provided in the following settings **are not** considered home and community-based and are not allowable settings for home and community-based services:

- Nursing facility
- Institution for mental diseases
- Intermediate-care facility for individuals with intellectual disabilities
- Hospital

The SMA has determined the following settings for delivering services to children are not considered home and community-based and are not allowable living arrangements for the CLTS Waiver Program:

- Residential care center for children and youth
- Group home for children

All other settings will be initially assessed individually by the SMA through a multi-phase process, using SMA staff or contracted entities under the direction of the SMA. These settings will also be reviewed for compliance on an ongoing basis. The following settings will be subject to further assessment:

Residential settings

- Community-based residential facilities
- Licensed 3-4 bed adult family homes
- Certified adult family homes, including 1-2 bed homes and homes certified under Wis. Admin. Code ch. DHS 82
- Residential care apartment complexes
- Foster homes for children
- Level 5 exceptional treatment foster homes (CLTS only)

Nonresidential settings

- Adult day service settings (adult day care)
- Children's day services settings (CLTS only)
- Fixed-site day habilitation service settings (day center services)
- Fixed-site prevocational service settings (center-based sites where individuals receive pre-vocational services intended to enable progression to integrated employment)
- Group-supported employment settings (enclaves/work crews)

<i>Summary of Preliminary Analysis of Settings</i>		
Waivers	Age Group	Settings Determined Compliant without Additional Review
All ³	Adults	Private residences not owned or controlled by service providers and not regulated under Wisconsin law or policy as residences for persons with disabilities
		Places of integrated, competitive employment
		Community sites predominantly used by the general public for typical community activities
WI.0414	Children's settings	Family's private residence, whether owned or rented
		Child care facilities predominantly used by the general public for child care
		Child care provider's private residence, whether owned or rented, used to provide child care
Waivers	Age Group	Settings Requiring Additional Review
All	Adults	Community-based residential facilities (CBRFs)
		Licensed 3-4 bed adult family homes (AFHs)
		Certified 1-2 bed adult family homes (AFHs)
		Residential care apartment complexes (RCACs)
		Adult day services settings (adult day care)
		Day habilitation service settings (day center services)
		Prevocational service settings
WI.0414	Children	Foster homes
		Level 5 exceptional treatment foster homes
		Children's day services settings (disability-related)
Waivers	Age Group	Settings Determined to be Noncompliant
All	All ages	Nursing facility
		Institution for mental diseases
		Intermediate care facility for individuals with intellectual disabilities
		Hospital
WI.0414	Children only	Residential care center for children and youth
		Group home for children

II. Assessment of regulations and policies for residential and nonresidential settings

Some of the HCBS standards found in the federal rule, such as choice of setting, choice of providers, and financial support for access to activities in the community, are the responsibility of the entity providing care management or consultation, not the service provider.

Other standards such as preference for a private room or choice of roommate and access to activities in the community are a joint responsibility of the setting and the waiver agency. For example, if a setting does not have private rooms or none are available, the waiver agency should assist the participant to consider another setting with private rooms. While all settings must allow access to the community, an individual may need more support to engage in an activity than the setting can provide. In such cases, the waiver agency is responsible for working with the participant and the setting to identify resources. This is true across all HCBS waiver programs

³ The waivers covered by this plan are: WI.0367 (Family Care); WI.0414 (CLTS); and WI.0484 (IRIS). The CLTS Waiver serves individuals ages 18-22 who may receive services in adult settings. WI.0154 and WI.0229 have been terminated since the original publication of the Wisconsin Transition Plan.

in Wisconsin. Monitoring the quality of person-centered planning is an ongoing process in all of these programs. A description of person-centered planning is found in each of the waivers listed in this document (see footnote 1) and in the policy documents that govern those programs. These policy documents include:

- [DHS-MCO Contract](#) for Family Care, Partnership, and PACE
- [Medicaid Home and Community-Based Services \(HCBS\) Waiver Manual for the CLTS Waiver Program](#)
- [IRIS Provider Agreement](#)
- [IRIS Policy Manual](#)
- [IRIS Work Instructions](#)
- [Being a Full Partner](#) (Family Care member booklet)
- [Vocational Services State Guidance Website](#)
- [Wisconsin Stat. ch. 51](#)
- [Wisconsin Admin. Code ch. DHS 94](#)
- Other related technical assistance documents

Person-centered planning requirements are addressed by the SMA for each program through contracts and program policy. The systemic assessment crosswalk (Appendix 3, Table 1) provides analysis of the role of person-centered planning in enforcing the requirements of the rule.

The remaining tables in the crosswalk address setting-specific policy guidance that relates to the provisions of the final rule. The analysis of each setting type focuses on those standards within the control of the setting, while addressing all aspects of the rule.

Wisconsin's initial assessment of the settings that are determined to need additional review is based on crosswalks of current state regulations, standards, and policies to the requirements articulated in the final federal rule.

Residential settings: For residential settings, the service standards in Wisconsin's waivers are based upon and reference applicable state statutes and regulations. The SMA conducted an analysis of the current regulatory requirements for the residential settings that serve adults, and identified those that align with and meet specific requirements of the HCBS regulations and guidelines for these residential settings. The analysis indicates that most of the requirements included in the federal rule are already covered by Wisconsin's statutes and regulations that govern certain licensed or certified residential settings.

The SMA determined that Wisconsin's state statutes, state regulations, and DHS standards related to residential settings do not conflict with any requirements of the HCBS regulations—that is, they do not include any requirement for certification or licensure that would put the setting out of compliance with the rule. The results of the analysis conducted by the SMA are detailed in the crosswalk found in Appendix 3. The crosswalk identifies areas of compliance and areas where the statutes, regulations and standards are silent, and specifies the remediation actions to be taken to ensure that settings used by waiver programs are compliant.

Nonresidential settings: The SMA used the same process for systemic assessment of nonresidential settings. The crosswalk is based on the language of the HCBS settings rule and the state's existing regulatory or SMA policy requirements where applicable. As not all day and vocational settings are covered by state law, regulation or certification standards, the SMA analyzed program policies as articulated in Wisconsin's waivers, policy documents, and contract requirements to determine the degree of compliance with the HCBS settings rules. The crosswalk for nonresidential settings, including remediation actions, is included as part of Appendix 3.

Conclusion of analysis: Wisconsin laws, regulations, standards, and other policies address most of the requirements of the rule, including provider agreements, participant choice, participant rights, and accessibility. In some cases, however, the policies do not address all of the criteria that CMS has suggested in its toolkits and other sub-regulatory guidance. In addition, Wisconsin policies are silent on some aspects of the rule. Therefore, provider assessments will be performed to determine whether requirements of the federal rule that are not addressed in detail through state policies are met by individual providers.

Based on CMS guidance, areas where the SMA has determined additional information is needed include:

- Location of the setting—characteristics of surrounding area
- Access to transportation
- Opportunities to receive services in an integrated community setting
- Opportunities to engage in competitive integrated employment
- Lockable entrances to individual living spaces
- Opportunities for privacy
- Nature of ability to make individual choices, such as access to food and money
- Access to certain areas in the setting

As necessary, additional requirements will be incorporated into waivers, SMA policies, contracts, and other documents used to articulate program requirements per the remediation plan described below.

Remediation at the system level: Because contracting and direct oversight of providers differs across Wisconsin's HCBS waiver programs and generally involves local waiver agencies, remediation strategies may have program-level variation. The SMA has analyzed regulations that govern certified and licensed settings and determined that there is no need to propose changes to regulations or certification standards for those programs.⁴ Both licensed and certified providers also serve people who do not receive Medicaid HCBS and any instances where additional criteria must be met for compliance with the HCBS settings rule can be accommodated through requirements specific to HCBS waiver providers. The crosswalk analysis for both the residential and nonresidential settings validates that none of the HCBS requirements are in conflict with the statutes or licensing regulations. The SMA can impose additional requirements on licensed or certified providers above those required in statute and rule in order for the provider to serve HCBS program participants. The SMA will ensure that any setting that serves one or more HCBS waiver participants will be required to comply with the requirements through our additional requirements and monitoring. The policy documents referenced on page 5 will be used to convey these additional requirements to waiver agencies.

As the program guidance is revised, the SMA will determine the extent to which additional documents need revision to reflect the revised policies. These documents include:

- Waiver provider agreements and other provider materials
- Participant/member handbooks and other participant informational materials
- Standards and requirements for specific waiver services

All programs will review policy and technical assistance documents and make revisions as needed. All changes will be in place to ensure compliance with the HCBS settings rule requirements on or before March 17, 2023.

Waiver agencies will be required by contract to ensure compliance with the requirements of the HCBS settings rule through their contracts and agreements with waiver providers. As part of the SMA's review of waiver

⁴ Licensure requirements and detailed standards are defined in state statutes and administrative code. Both require either action or review and concurrence by the Wisconsin Legislature. Settings that are governed by state statutes and administrative code are CBRFs, 3-4 bed AFHs, RCACs, level 5 exceptional treatment foster home care, and child day care.

agency compliance with contract and waiver standards, the SMA will validate waiver agency compliance with these requirements.

In addition to ensuring that existing program policies and guidance are compliant with the settings rule, the SMA will analyze and develop infrastructure and procedures consistent with each program structure to implement oversight of compliance. This will include:

- Procedures to document provider remediation and validate implementation of those plans.
- Development of educational materials for providers, waiver agencies, aging and disability resource centers, participants, family members, and others.
- Consideration of additional processes to verify ongoing compliance, such as participant surveys.
- Development of mechanisms to notify waiver agencies and third-party administrators of noncompliant providers.
- Updating information management systems to assure ongoing compliance with the rule.

III. Provider self-assessment

Residential settings: Nearly 5,000 residential settings serving adult HCBS waiver participants were identified as subject to individual assessment for compliance with the HCBS settings rule. The SMA used several methods to ensure that all covered providers received information about the self-assessment. Waiver agency provider lists (managed care organizations, county and tribal waiver agencies, IRIS agencies) were collected and compiled to create a comprehensive list. As the list of compliant providers expands, the SMA continues to work with waiver agencies to ensure that providers or individual settings haven't been overlooked.

The provider self-assessment was a single standardized tool developed by SMA staff based on the review of the requirements of the rule, model tools, exploratory questions provided by CMS, and similar assessment tools developed by other states. The SMA released the draft tool using a public notice process and invited stakeholders to provide comments. Stakeholder comments were compiled, reviewed, and incorporated into the tool as determined necessary by the SMA.

The SMA released the self-assessment tool to providers in an online format. Each site was provided with a personalized link to the tool so that the state could determine the response rate. A paper version of the tool was available upon request for providers who did not have access to a computer. The tool requested a *yes* or *no* response to most questions, with space allowed for comments. Other questions provided a list of options from which the respondent could select. Providers were not asked to attach documentation to the self-assessment but were informed that follow-up could include a request for documentation of the accuracy of their responses.

Providers were required to complete the self-assessment for each site that they operated. Provider responses were compiled and evaluated by SMA staff and contractors. Entities that were not currently providing waiver services were encouraged to complete the self-assessment if the provider anticipated delivering HCBS waiver services in the future. If such a provider did not complete the self-assessment during the transition period, they were instructed to contact their credentialing agency and request an HCBS compliance review.

Children's residential settings, including traditional foster care and level 5 exceptional treatment foster homes, were not asked to complete a self-assessment. Traditional foster care placements are determined by the courts from a group of potential settings that may never be a placement for a child on an HCBS waiver. The nature of foster care placement is such that a child placed in the home must be enabled to participate in activities similarly to a child not in foster care. Waiver care managers and child welfare staff are required to ensure the adequacy of this interaction in the community. Because these settings do not primarily serve HCBS waiver

participants, the SMA will use the site visit process outlined in section IV of the statewide transition plan for assessing and ensuring HCBS settings rule compliance for level 5 foster care. All level 5 foster care providers serving as a residential setting for waiver participants will receive a site visit. Personnel conducting site visits to determine compliance with the settings rule will use a standardized review tool developed by the SMA. Provider compliance designations will follow the same process as all other settings.

The SMA furnished information to, and continues to work closely with, the state licensing entities responsible for licensing residential facilities—the Department of Health Services (DHS), Division of Quality Assurance (DQA) for adult settings, and the Department of Children and Families (DCF), Division of Early Child Care and Education and Division of Safety and Permanence for children’s settings. The SMA also notified the entities that certify 1-2 AFHs. These entities varied by program and included Family Care managed care organizations; county and tribal waiver agencies for CIP, COP, and CLTS; and Lutheran Social Services for IRIS.⁵ SMA staff provided information to provider associations to share with their members. SMA representatives presented at provider meetings held by associations as well as at forums hosted by DQA and DCF (the state licensing entities).

Nonresidential settings: Wisconsin initially identified approximately 500 nonresidential settings that were subject to individual assessment for compliance with the HCBS settings rule.

The SMA utilized several methods to ensure that all covered nonresidential providers received information about the self-assessment. Waiver agency provider lists (managed care organizations, county and tribal waiver agencies, IRIS agencies) were collected and compiled to create a single, comprehensive list. The SMA furnished information to provider associations to share with their members and continued this communication throughout implementation of the self-assessment. The SMA contacted non-responding providers to ensure they were aware of the tool, and to reinforce their need to complete it. The SMA also took every opportunity to present at provider meetings and conferences to share the tool and its purpose.

Entities that were not providing waiver services at that time were encouraged to complete the self-assessment if they anticipated delivering HCBS waiver services in the future. Providers were asked to complete one self-assessment for each site they operated and for each service they delivered in the site (e.g., prevocational services and adult day services). Providers serving participants in more than one waiver program or from more than one waiver agency in the setting only needed to complete the self-assessment once for a given site and service combination. New providers are subject to an assessment before they can deliver waiver services.

The nonresidential provider self-assessment tool developed by SMA staff was based on the requirements of the rule, model tools, exploratory questions and technical assistance provided by CMS, and assessment tools developed by other states. The SMA released the draft tool using a public notice process and invited stakeholders to provide comments. Stakeholder comments were compiled, reviewed, and incorporated into the tool as determined necessary by the SMA.

The single standardized tool was deployed in the summer of 2016 to:

- Assess current provider operations in comparison to the nonresidential settings rule requirements
- Determine capacity building and technical assistance needs
- Identify site changes needed to achieve compliance with the settings rule

⁵ The CIP and COP waivers have been terminated, and 1-2 bed AFH certification for the IRIS program is currently done by staff in the SMA.

Meetings were scheduled for stakeholder feedback on the tool to make recommendations for revisions. One meeting was held with a group of nonresidential providers and their associations, and the second meeting included advocacy agencies and parent groups. Feedback from the two meetings was then incorporated into the review tool to build a more robust set of questions for measuring nonresidential provider compliance with the HCBS settings rule.

The resulting nonresidential self-assessment tool consists of 50 quantitative and qualitative questions. Definitions were provided specific to wording used in the questions to assist the respondent with response clarity and accuracy. Each question offered an “other” choice and a “comments” section to allow respondents to be more specific in their responses to certain questions.

The nonresidential setting types that submitted the nonresidential self-assessment tool are:

- Adult day service settings (adult day care)
- Children’s day services settings (CLTS waiver providers only)
- Day habilitation service settings (day center services)
- Prevocational service settings
- Group supported employment service settings

The only non-residential settings that are regulated by a state licensing entity are adult day care settings. The SMA is coordinating with DQA in its assessment of adult day care settings. Upon the completion of the initial assessment and validation, ongoing compliance will be monitored by DQA. The remaining nonresidential setting types are not licensed or regulated by the state. Those settings must meet the provider qualifications laid out in the state’s waivers and will be monitored for HCBS settings rule compliance by SMA staff.

At the close of the self-assessment period, provider comments were reviewed and compiled by SMA as part of the benchmark development process. Aggregate information taken from the provider self-assessment tool responses was used in the development of both the benchmarks and the validation tool.

Each of the 50 questions on the validation tool has an individual benchmark to which the setting is measured.

Three in-person sessions were held with stakeholders, providers, and advocates to review and discuss the state’s benchmarks. Feedback and consensus from these meetings was beneficial in the finalization of the benchmarks. Available on the SMA website, the 22-page [Benchmark Guide for Home and Community-Based Settings Rule: Nonresidential Provider Settings](#) establishes a high bar for integration both within the setting and out in the broader community.

IV. Review and validation of self-assessment

Residential settings: Of the nearly 5,000 self-assessments released to individual residential settings subject to compliance assessments, a total of 4,719 responses were received. From the time that the initial self-assessments were taking place to the start of the compliance validation process, 554 residential settings closed. Reviewers identified 241 duplicates and screened out another 346 respondents for a variety of reasons. For the 3,578 that remained, the results of the validation process were as follows:

Compliance Status	1-2 bed AFH	3-4 Bed AFH	CBRF	RCAC	Level 5 Foster Care	Total
Met criteria of HCBS settings rule	241	233	295	140	9	918
Met criteria upon completion of remediation	677	1,002	699	17		2,395
Did not meet criteria (did not remediate during validation period)	148	41	47	2		238
Presumptively institutional			20	7		27 ⁶
TOTAL	1,066	1,276	1,061	166	9	3,578

The SMA reviewed each submitted residential self-assessment to make a preliminary determination as to whether compliance criteria were met or not met. Validation tools specific to the setting type were used by reviewers conducting all desk reviews and onsite visits. The evidence provided by the setting or observed by the reviewer during the onsite visit or desk review took precedence over the provider's self-assessment responses. In some cases, settings did not understand the question or made necessary changes within the setting during the interval between completing the self-assessment and the onsite visit. The remediation notice, if any, was based on the onsite visit or desk review findings. A sample of compliance reports for settings determined by reviewers to meet criteria were reviewed by an SMA compliance evaluation panel for consistency and inter-reviewer reliability.

A representative sample of residential settings that submitted self-assessments received an onsite validation review. The sample selected for onsite review was stratified to ensure that it was representative of settings. The factors considered in the stratification process included setting type and geographic distribution. Beginning in June 2016, the SMA, using contracted staff under the direction of the SMA, conducted the site visits to a stratified representative sample of residential settings. The SMA contracted for validation staff through a third party with no affiliation with providers. DQA, Wisconsin's designated state survey agency that regulates most residential and health care settings, worked with the third party staff to oversee the site visit and validation process for residential settings.

In addition to the settings randomly selected for a review, any current waiver provider that failed to submit a self-assessment for a setting received a site visit by the SMA's contracted staff. If management of a setting refused to cooperate with the site visit personnel or any subsequent efforts to assess compliance, the setting was determined not to meet criteria and subject to relocation of all program participants. Before making any final determination, the SMA worked with providers and waiver agencies to ensure that providers understood the process and the requirement to participate in the process. When appropriate, the SMA utilized existing statutory process for facilities that chose to downsize or close as a result of noncompliance with the HCBS settings rule requirements.

The SMA, using SMA or contracted staff under the direction of the SMA, determined provider compliance designations. These designations are as follows:

- Yes—setting meets HCBS settings rule criteria.
- Not yet—setting currently does not meet HCBS settings rule criteria but may, with remediation.
- No—setting cannot meet HCBS settings rule criteria; setting cannot or will not conform, setting is presumptively institutional, and/or state determines setting is incompatible with the HCBS final rule (setting may request review and consideration by SMA for submission to CMS for heightened scrutiny).

⁶ Additional settings were later identified by the SMA and are included in the heightened scrutiny number below.

Nonresidential settings:

Of the approximately 500 nonresidential settings that received the self-assessment, a total of 402 responses were received. Settings that did not submit or return self-assessments are still included on the SMA's list. Between the onset of the self-assessment period and the beginning of the validation process, a number of settings closed and others not on the original list were identified.

Beginning in May 2019, an entity under contract to the SMA began conducting the validation site visits to nonresidential settings that had submitted a self-assessment. The entity used the benchmark validation tool developed by the SMA and conducted onsite visits during calendar year 2019. The process was closely monitored by SMA staff, and the decision was made to bring the process in-house. On January 1, 2020, the process was brought in-house utilizing contracted staff supervised directly by the SMA.

The SMA contracted for validation staff through a third party with no affiliation with providers. Thorough desk reviews were conducted of each submitted nonresidential self-assessment to make a preliminary determination as to whether compliance criteria were met or not met. If the reviewer identified internal inconsistencies or other ambiguous responses, the setting was contacted by phone or email and was interviewed regarding any unclear responses. Current waiver providers that failed to submit a self-assessment for a setting were contacted by review staff to begin the assessment process.

As of early 2021, 581 nonresidential settings are being reviewed to determine compliance. Of those, 110 had a site visit in 2019 by the previous validation contractor. When the SMA brought the validation process in-house in 2020, reviewers were unable to conduct additional site visits due to the public health emergency. The estimated results of the compliance determination process are as follows:

Compliance Status	Number
Expected to meet criteria of HCBS settings rule	72
Expected to meet criteria upon completion of remediation	471
Expected to not meet criteria (will not remediate during validation period)	38
Presumptively institutional	0
TOTAL	581

Due to the public health emergency throughout 2020, the review process was conducted virtually. In-house contracted staff contacted provider settings with instructions on participating in and completing the HCBS compliance review process. SMA staff developed a comprehensive [Evidentiary Document Checklist](#) as a reference for providers while compiling their materials. SMA reviewers conducted extensive desk reviews of provider-submitted materials. Preliminary compliance with each of the state's benchmarks was validated through the assessment of the setting's policy and procedure materials, participant materials and handbooks, community activity schedules, staff training and development materials, and person-centered planning documents. If the reviewer identified internal inconsistencies or other ambiguous responses, the setting was contacted by phone or email to discuss any unclear responses.

Validation tools specific to the setting type were used by reviewers conducting all desk reviews and onsite visits. The evidence provided by the setting or observed by the reviewer during the desk review took precedence over the provider's self-assessment responses. In some cases, settings did not understand the question or made necessary changes within the setting during the interval between completing the self-assessment and the onsite visit.

If areas of non-compliance were identified during the desk review or subsequent follow-up, the provider received a Notice of Remediation and setting-specific Remediation Report. Settings were required to respond with evidence and documentation of actions taken or submit a plan of remediation to be completed within a specified deadline.

If management of a setting refused to cooperate with the site visit personnel or any subsequent efforts to assess compliance, the setting was determined not to meet criteria and subject to relocation of all program participants. Before making any final determination, the SMA worked with providers and waiver agencies to ensure that providers understood the process and the requirement to participate in the process.

V. Identification and completion of provider remediation

Residential: Every residential site that submitted a self-assessment received a thorough desk review. If the reviewer identified internal inconsistencies or other ambiguous responses, the setting was contacted by phone or email and was interviewed regarding any unclear responses. If remediation requirements were identified during the desk review or subsequent follow-up, reviewers sent detailed remediation notices to the setting. Settings were required to respond to the notice of remediation with evidentiary documentation of actions taken, or their plan of remediation to be completed within a specified deadline. Settings that did not remediate were identified as not meeting criteria.

The process for remediation will proceed as follows:

- Provider is notified that setting does not fully meet the HCBS settings rule criteria. Notification includes description of areas of criteria not met. Notifications will occur as individual site reviews and self-assessment reviews are completed.
- Provider is required to remediate any areas of criteria not met and submit evidence of remediation to the SMA based on a timeframe specified in the notification. The reviewers contracted by the SMA are reviewing this evidence based on guidance provided by the SMA. When the reviewer determines that the provider has achieved compliance, the determination will be sent to the SMA and follow the process described above.
- If remediation is complex and requires additional time, the provider will be required to submit a remediation plan that identifies the remediation steps and timeline proposed by the provider.
 - SMA will review plans for response to areas of concern and advise provider of any issues.
 - Remediation plans must identify remediation steps that will be completed per the dates identified in the timeline on pages 26-28. A provider may request a compliance review as soon as it has implemented the plan.
- SMA conducts a follow-up validation review of evidence submitted by the provider or a site visit, if deemed necessary, and determines whether the setting now meets the HCBS settings rule criteria.

Personnel conducting validation site visits used standardized review tools developed by the SMA. These tools allowed for site observations, review of supporting documents submitted by the provider, interviews with staff, and conversations with waiver participants in the setting.

For residential settings, the primary area of remediation was to add keyed locks to individual living unit doors and develop policies for staff use of keys. The SMA provided one-on-one technical assistance to settings to help understand the door lock requirement and produced [Door Locks in Adult Long-Term Care Residential Settings](#), available on the SMA website. The second most frequently identified area of remediation was access to personal funds. Some settings have arrangements by which residents can voluntarily place funds with the setting for security reasons. In some facilities, the funds are not continuously accessible. The SMA provided

one-on-one technical assistance to settings to help understand the access to funds requirement, and produced a technical assistance document, [Access to Personal Funds and Resources in Adult Long-Term Care Residential Settings](#), available on the SMA website.

The SMA compiled a list of providers that are determined, based on responses to the self-assessment and/or validation by the state, to comply with the regulations for HCBS settings. Providers that submit remediation plans will be actively monitored by the SMA and/or its contractors to ensure full compliance to the HCBS settings rule within the timeframe identified in the plan.

Settings that met all compliance criteria, both with and without remediation, received a letter from the SMA confirming their compliance. For DQA- licensed or certified settings (CBRFs, 3-4 bed AFHs and RCACs), the HCBS compliance designation is included on their [public-facing provider directories](#). This includes settings that achieved compliance during in the initial review process and settings that achieved compliance as a result of a subsequent DQA review.

The SMA compiled a list of provider settings determined as compliant with the regulations for HCBS settings. The SMA also identified settings that were determined to need remediation and required these providers to submit remediation plans or evidence of remediation to the SMA. Providers that submitted remediation plans were actively monitored by the SMA and/or its contractors to ensure full compliance with the HCBS settings rule within the timeframe identified in the plan. Waiver participants will be transitioned to an HCBS-compliant setting in accordance with the SMA's plan to relocate residents for those providers that did not reach full compliance or chose not to comply.

For those providers that do not reach full compliance, or choose not to comply, waiver participants will be transitioned to an HCBS-compliant setting in accordance with the SMA's transition plan described in *VII. Plan to relocate participants or discontinue waiver funding*.

In some cases, the management of a setting refused to cooperate with the compliance review personnel, or dismissed all contact efforts to assess compliance. Before making any final determination of noncompliance, the SMA worked with providers and waiver agencies to ensure that providers understood the process and the requirement to participate in the process. When appropriate, the SMA utilized the existing statutory process for facilities that chose to downsize or close as a result of noncompliance with the HCBS settings rule requirements.

The SMA has collaborated with provider associations and advocacy organizations to provide benchmark and process information, technical assistance, and to answer questions. A dedicated phone line and email address were available for providers to ask questions, receive one-on-one technical assistance, or submit materials. The SMA website has a dedicated webpage for the [HCBS settings rule](#) that includes information on the rule, response to frequently asked questions, and additional contact information. SMA HCBS settings rule staff have presented at numerous meetings, conferences, and other outreach venues on the HCBS settings rule, including providing information on remediation topics. These have included sessions sponsored by the state regulatory agency, by industry organizations, and conferences of general interest to disability agencies and self-advocates. Most sessions have provided interactive opportunities for providers to ask presenters HCBS-related questions, and to share information with each other.

Nonresidential:

Validation tools specific to nonresidential settings were used by reviewers conducting all desk reviews and onsite visits. Setting-specific compliance reports were then generated, with each of the benchmark areas identified as "valid" or "remediate," including a letter to the provider describing the compliance areas requiring

remediation in order to meet the HCBS settings rule. The onsite observations or evidentiary materials provided by the setting during the onsite visit took precedence over the provider's initial self-assessment responses. In some cases, settings had completed the necessary changes during the interval between completing the self-assessment and the onsite visit.

If the reviewer finds that a setting does not meet the SMA's benchmark for compliance, a report will be generated. The setting-specific Remediation Report includes the setting's rule requirements, the SMA's benchmark for that compliance area, and the reviewer's assessment and observations to-date. Each provider's report includes all areas requiring remediation in order to reach compliance. Providers are asked to submit a Remediation Plan addressing each of the benchmarks. Each provider's submitted remediation plan is reviewed by the SMA to confirm that the plan adequately addresses the setting's rule requirement and will lead the setting to compliance. Settings then receive written notice that their Remediation Plan is acceptable and includes a timeline for completion. Throughout the remediation activities, reviewers are available to provide feedback and guidance on policy or practice updates, and other steps toward compliance with the regulation. Confirmation that the provider has implemented all areas of their remediation plan is further assessed through a review of provider-submitted evidence. Onsite validation will resume once reviewers are able to travel statewide following the end of the public health emergency. In some cases, reviewers have requested video walk-throughs with settings to observe and confirm certain compliance areas. Ongoing compliance will be assessed during future onsite visit schedules.

The common technical assistance needs that are being identified for non-residential settings include assistance identifying the documentation needed to validate compliance, discussions on community integration inside and outside the setting, and clarification related to restrictive measure policies and. The SMA has provided settings with direct links to the [Restrictive Measures Guidelines and Standards](#), and developed an [Evidentiary Document Checklist](#) to help identify beneficial documents to be submitted as part of the process. Adult day care centers have expressed confusion regarding how some of the compliance benchmarks apply to their settings. The SMA developed a technical assistance document targeted to these settings.

The SMA is confident that most nonresidential settings will be able to become compliant before the end of the transition period. Several providers have changed their model to incorporate more integrated activities. The SMA continues to work with industry organizations to encourage additional changes.

Upon notice of unmet HCBS settings rule criteria, a provider who does not wish to comply may notify the SMA at any point in the assessment and remediation process. When a provider makes this notification to the SMA, the SMA will contact any waiver agencies that use the provider to begin the process of relocating waiver participants from residential settings or identifying alternate day activities or funding sources for nonresidential settings, including providing each individual with choices of other HCBS-compliant settings.

Providers that do not attempt or choose not to come into compliance will be informed of their ineligibility to participate in providing HCBS waiver services. If a setting cannot or will not make changes to reach compliance, the SMA will work with MCOs and IRIS Consultant Agencies (ICAs) to identify options in another compliant setting, including non-disability specific settings. If a participant chooses to continue to receive services in a setting that is not compliant, the MCO or ICA can work to identify alternative funding, but the MCOs and ICAs will only be responsible for ensuring an alternative is available in a compliant setting.

This overall process will have a clear start and end date to allow for participant transitions, but the determination of compliance or continued noncompliance may occur at any time during the transition process. The SMA will maintain a log of findings of provider compliance and noncompliance.

Report of findings: After review of all remediation plans and final determinations of compliance, the SMA will issue a report identifying settings determined to comply with the HCBS settings rule. This report will be provided to all waiver agencies and will be readily available to the public, including program participants, families, and providers.

From the date that the initial validation results were identified, the SMA has continued to work with and encourage providers to become compliant. Settings that did not meet criteria during the initial validation process were able to submit an [HCBS Compliance Review Request](#) to DQA to be reviewed through the state's ongoing compliance review process. The SMA's goal is to have as many settings achieve compliance as possible in order to minimize disruption of living arrangements for waiver program participants.

VI. Ongoing assessment and monitoring of settings

All settings are subject to the ongoing regulatory process for their setting type. Any areas of non-compliance that may not have been identified during the initial review process are being identified through the ongoing compliance and regulatory process. This process is conducted by DQA for the CBRFs, 3-4 bed AFHs and RCACs. For 1-2 bed AFHs, the process is conducted by MCOs for managed long-term care (LTC) and SMA review staff for the IRIS program.

Wisconsin will use several methods for ongoing assessment and monitoring of settings:

Build into regulatory monitoring: Licensed settings and settings that are certified by the state licensing authority (DQA) (CBRFs, 3-4 bed AFHs, RCACs, and adult day care providers) are subject to periodic compliance site visits (at least every 3 years) by DQA. Settings found to have deficiencies in licensing or certification requirements are required to implement corrective actions, and can lose their license or certification when noncompliance continues or is egregious. Any provider that loses its license or certification cannot continue to be a qualified waiver service provider regardless of their HCBS compliance status. As part of these periodic licensing or certification reviews, DQA will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies. Failure to adequately remediate will result in removal as an HCBS waiver provider. New providers who are licensed or certified by DQA will be reviewed for HCBS compliance if they intend to serve HCBS waiver participants. HCBS compliance will be noted on the DQA directories of licensed or certified providers.

Certified 1-2 bed AFHs are certified by MCOs, counties, or staff employed by the SMA. The HCBS requirements have been incorporated into the [Wisconsin Medicaid Standards for Certified 1-2 Bed Adult Family Homes](#). The certification entities are required to review compliance with the state standards for any setting that intends to serve HCBS waiver participants. These settings must be recertified on an annual basis, and the HCBS compliance requirements are part of the review and recertification process.

Use SMA supervised staff to oversee nonresidential settings that are not otherwise regulated: The third-party staff currently conducting the compliance reviews of non-residential settings will continue to be employed to assess any new non-residential settings and to conduct ongoing compliance reviews. The SMA intends to begin with an annual review process to ensure compliance, but may reduce the frequency to at least every three years, similar to DQA-regulated residential settings.

Incorporate monitoring into person-centered planning and required waiver monitoring visits: All of Wisconsin's HCBS waivers require that the waiver agencies support person-centered planning. Care managers and support and service coordinators in Family Care and the CLTS waiver work with the participant, family and other parties as preferred by the participant to develop a person-centered plan and provide services that

implement the plan. In the fully self-directed IRIS program, the participant develops his or her own plan and is supported to implement that plan by the IRIS consultant and fiscal-employer agency. In all cases, participants are given the choice of services in non-disability specific settings.

Waiver agencies must ensure that providers meet the standards as defined in the respective approved waivers, including requirements of the HCBS settings rule. Waiver agencies will only be allowed to contract with or otherwise engage providers who meet the HCBS settings rule requirements.

MCO care managers, CLTS support and service coordinators, and IRIS consultants must meet with program participants face-to-face every 3 months. At least one meeting per year must be in the person's home. Other meetings may occur in other locations including day program settings. When meeting with the participant, settings are observed to ensure health and safety and continuing compliance with the HCBS settings rule. This does not replace monitoring and compliance determination by the credentialing authority, but provides an important supplemental check on compliance. In the event a setting appears to no longer be compliant with the HCBS settings rule, the waiver agency will inform the SMA who can make a request to the credentialing authority or to SMA staff, as appropriate, to conduct a site visit to determine compliance with the rule.

For foster homes levels 1-4 the SMA plans to include the HCBS final settings rule requirements in its service definition for foster homes. Additionally, the SMA will require support and service coordinator attestation that the setting fulfills the service definition / HCBS final settings requirements prior to service provision or placement. The SMA will plan to implement and then require compliance at the next 6 month service plan review for any existing placements.

Systems development to document compliance: The SMA has developed a state-level data repository for initial and ongoing determinations of compliance with the HCBS settings rule. The electronic repository has been implemented for residential settings. The state licensing agency (DQA) and the entities that certify 1-2 bed AFHs will report data to the system. Updated reports will be produced on a regular basis and shared with waiver agencies. Currently, DQA includes an HCBS compliance designation in the licensing data [available on the SMA's website](#). As compliance determinations are made for nonresidential settings, that data will be added to the repository. In the future, the SMA expects to leverage the functionality of Wisconsin's Medicaid Management Information System (MMIS) by developing provider management capacity for long-term care providers in the MMIS. The data will include an indicator of HCBS compliance for covered providers. This system is anticipated to go live in mid-2022.

Building capacity to assure non-disability specific options: The SMA has several activities in place to build capacity for non-disability specific options for waiver program participants.

Residential

- Waiver services support housing modifications and costs of relocating to a less-restrictive setting.
- Low-income housing credit preference points for integrated, supportive housing development. The State's housing finance authority, the Wisconsin Housing and Economic Development Authority (WHEDA), has implemented preference points for supportive housing that limits targeted supportive units to 25% of the capacity of the development. Applications for the preference points are reviewed by SMA staff.
- Section 811 vouchers – The SMA coordinates with WHEDA and property management agencies to make referrals to available units in integrated developments.
- Money Follows the Person (MFP) – Wisconsin has an active MFP program. Transitions under MFP are limited to settings of 4 or fewer people; most move to an individual home or apartment.

Non-Residential

- Competitive Integrated Employment (CIE) Pay for Performance (P4P) – The SMA has implemented a pay-for-performance initiative for its managed long-term services and supports (LTSS) programs that provides incentive for MCOs to increase member participation in CIE. The P4P initiative is in its second year.
- 2017 Act 178 – With the enactment of Act 178, the Wisconsin legislature made Wisconsin an Employment First state. The law requires state agencies engaged in employment activities to establish CIE for people with disabilities as their priority policy and work together, with stakeholders, to set benchmarks and goals for increasing CIE participation rates across Wisconsin
- Redefining waiver services – The SMA is working on new definitions for several of its day services to more accurately identify and promote the services being provided in non-disability specific settings.

VII. Heightened scrutiny review process

The three CMS criteria for settings presumed to have institutional characteristics are:

- Prong I. Settings in a publicly or privately owned facility providing inpatient treatment
- Prong II. Settings on the grounds of, or adjacent to, a public institution
- Prong III. Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS waiver services

The first two questions on the provider self-assessment form required settings to identify whether they were in the same building as a public or private inpatient facility, or on the grounds of a public institution. This question was not included in the nonresidential self-assessment. SMA reviewers assessed nonresidential settings for institutional qualities and did not identify any that met either Prong I or II criteria.

The SMA identified 48 residential settings serving waiver participants that met either Prong I or Prong II criteria. It is expected that the majority of these settings will overcome the institutional assumption and meet the requirements of the settings rule prior to the end of the transition period. Any settings that appear to meet Prong III criteria are expected to be able to remediate prior to the end of the transition period.

The SMA provided each residential setting with a written notice of need for heightened scrutiny review. Instructions for submitting evidentiary materials were also provided, as well as an evidentiary document checklist and information on the federal heightened scrutiny process. Only certain SMA reviewers were tasked with the heightened scrutiny reviews. In most cases, providers were able to work with the same heightened scrutiny reviewer throughout the entire process.

The SMA developed an [HCBS Heightened Scrutiny Reviewer Assessment and Evidentiary Summary](#) form to ensure a consistent and logical review summary, as well as inter-reviewer reliability. The summaries were consistent in form, and included compliance within state standards and regulations specific to the setting type (RCAC, CBRF, AFH and nonresidential settings, as applicable). The format specified the compliance areas and criteria, and allowed the reviewer to document all evidentiary information within the appropriate criteria. For instance, all evidentiary information obtained regarding how an individual was able to choose to receive services in the community was documented in the same area of the evidentiary summary. The verification of related documents such as policies, procedures, staff training, or resident handbook was included along with the onsite observations and/or public comments received regarding the same. Each evidentiary summary received a quality assurance review by the SMA's HCBS Implementation Coordinator to ensure that the review was complete, evidenced how the setting overcame an institutional presumption, and was ready to be posted for public comment.

Each provider received a copy of their completed evidentiary summary. Providers were advised of the public comment period, along with stakeholders and provider associations.

The SMA made public the name and address of each setting that received a heightened scrutiny review – and overcame the institutional presumption – to allow for public comment. SMA staff considered the findings of the reviewers and any public comments, and made a recommendation on each setting. The list of heightened scrutiny settings was reviewed by SMA managers based on the recommendations of review staff. The list was then submitted to the Secretary of the Department of Health and Human Services (DHHS) for federal review on April 2, 2021.

VIII. Plan to relocate participants or discontinue waiver funding

Residential: The SMA informed waiver agencies of the compliance designation and provided them with a list of settings that had not met criteria prior to completion of the initial review process. The waiver agencies assisted the SMA with outreach to settings in their provider networks emphasizing the need to become compliant with the settings rule and referring them to DQA for a review. As the result of this outreach effort, only 36 settings continue to not meet the criteria for compliance with the settings rule. Due to the COVID-19 public health emergency, the SMA put compliance-related transitions on hold. When it is deemed prudent to do so, the SMA will notify waiver agencies of the need to begin the process of identifying new living arrangements for program participants living in settings that do not meet the criteria for compliance. The waiver agencies will be asked to simultaneously notify the setting and the participants living in the setting of the need to transition to ensure that the messaging is consistent. The SMA will work with waiver agencies to allow settings ample opportunity to come into compliance before any transitions occur and to give participants and their MCO care management staff sufficient notice to identify a new living setting.

The SMA estimates that about 100 individuals may need to transition to new living settings because their current setting does not meet compliance criteria with the HCBS settings rule. The SMA has two processes that come into play when individuals need to transition. If the setting is a CBRF and will be losing 5 or more residents, the SMA has a process for overseeing transitions, known as the [Chapter 50 process](#). The process involves significant oversight by the SMA, DQA, the MCO, and other entities to ensure that transitions take into account resident preferences and needs. If the type of setting or the number of residents involved does not trigger the Chapter 50 process, SMA oversight staff work directly with care management staff at the MCOs to ensure that the transition process is implemented smoothly and that participant preferences are taken into account, including the choice of a non-disability specific setting. Participants will be given sufficient notice and time to explore other settings and will not transition until all necessary services and supports are in place.

Nonresidential: The SMA does not yet have the final number of people who will be impacted by provider non-compliance with the HCBS settings rule. The SMA is making every effort to minimize the impact, and will only transition HCBS waiver program participants after all attempts to assist providers towards compliance with the settings rule have been exhausted. In the case of nonresidential settings, continued use of a noncompliant setting by waiver participants will depend on the ability of the provider or participant to identify alternative funding. The waiver agency can assist in the identification of alternative funding, but is not obligated to identify funding. The SMA timeline includes completing its assessment and remediation activities in a timely manner to allow people sufficient opportunity to choose a new setting and relocate before the CMS deadline for full statewide compliance. When appropriate, the SMA will use the state's existing statutory process under Wis. Stat. ch. 50 for facilities that choose to downsize or close as a result of the HCBS rule requirements. For additional details regarding transitions, please see the sections specific to residential and nonresidential settings above.

People who will be affected by the noncompliance of a provider will be issued written notice and ensured due process. The process will be as follows:

- A minimum of 30 days in advance of a transition, the waiver agency will issue each participant or legal representative written notice, in language specified by the SMA, and including notice of the right to due process, that the person will need to transition due to noncompliance by the provider.
- The notice will be provided as soon as the waiver agency is aware that the setting has not successfully met the HCBS waiver requirements, or has chosen not to comply, but not later than June 30, 2022, to allow time for due process and the identification of a compliant setting that meets the needs and preferences of the participant.
- At the same time, the waiver agency will notify the provider in writing of the intent to transition a participant from the setting or the intent to discontinue waiver funding.
- The waiver agency will utilize the person-centered planning process to identify other compliant settings for affected individuals. Support and services coordinators, IRIS consultants and interdisciplinary teams will work with each person affected and their families or guardians to identify a choice of compliant settings, including settings that are not disability specific.
- The waiver agency will meet all required person-centered care planning and care plan development processes and practices and provide all necessary supports to the person who will transition.
- If a person chooses not to move, the waiver agency will help the person to understand the consequences of remaining in the noncompliant setting, including potential loss of waiver eligibility.
- The SMA will provide support to waiver agencies as needed during this process.

IX. Timeframe and milestones

The SMA established timeframes with the following priorities:

- Minimize avoidable member transitions.
- Maximize the amount of time for providers to come into compliance.
- Provide enough time for the SMA to diligently conduct onsite provider assessments.
- Provide enough time for any necessary participant transitions to occur in a planned, person-centered manner allowing for due process for each affected participant.

Wisconsin Statewide Transition Plan Milestones and Projected Timeline

Milestone Reference #	Milestone	Description	Status
Systemic Assessment – Regulation and Policy Review Process			
WI.01.0	Systemic assessment	Preliminary assessment of waiver services and settings	Completed 10/31/2014
WI.01.1	Completion of systemic assessment	Analysis of service descriptions, policies, waiver language, program regulations, waiver provider agreements, contracts, manuals, handbooks and other materials for compliance with HCBS settings requirements.	Completed 06/30/2016

Milestone Reference #	Milestone	Description	Status
WI.01.2	Completion of Systemic assessment	Regulatory/Policy assessment of waiver services and settings; adult residential and non-residential settings	Completed 9/30/15
Systemic Remediation			
WI.02.0	Revisions made to service descriptions, waiver language, program regulations, contracts, manuals, and handbooks to ensure compliance with HCBS settings requirements	Revisions will be made to ensure compliance with HCBS settings requirements: service descriptions; waiver language, program regulations; contracts; manuals; handbooks. Changes to coincide with new contract years, waiver years, etc., as applicable	12/31/2022
WI.03.0	Effective date of new rules and regulations	Wisconsin is not making any changes to rules, regulations or statutes.	Completed 7/14/2017
WI.04.0	Effective date of new rules and regulations: 100% complete	Wisconsin is not making any changes to rules, regulations or statutes.	Completed 7/14/2017
Residential Provider – Assessment			
WI.05.0	Completion of site-specific assessment	Residential – The SMA will review each submitted non-residential provider self-assessment to make a preliminary determination as to whether compliance criteria were met or not met. A representative sample of residential settings that submitted self-assessments received an on-site validation review. Beginning in June 2016, the SMA, using contracted staff under the direction of the SMA, conducted site visits to a stratified representative sample of setting	Completed 8/31/2018
WI.05.2	Completion of site specific assessment	Preliminary results of provider self-assessment/validation process analyzed	Completed 11/1/2017
WI.05.3	Completion of site-specific assessment	Residential: The SMA has reviewed each submitted residential provider self-assessment to make a determination as to whether compliance criteria were met or not met.	Completed 8/01/2018
Residential Provider – Remediation			
WI.08.0	Completion of residential provider remediation: 25%	<ul style="list-style-type: none"> Provider remediation plans submitted as required. Provider is notified that setting does not fully comply. Notification includes description of areas of non-compliance. Notifications will occur as individual site reviews are completed. 	Completed 12/31/2016
WI.09.0	Completion of residential provider remediation: 50%	<ul style="list-style-type: none"> Provider remediation activities occurring. Provider is required to remediate any areas of criteria not met and submit evidence of remediation to the SMA based on a timeframe specified in the notification. The reviewers 	Completed 12/31/2017

Milestone Reference #	Milestone	Description	Status
		<p>contracted by the SMA are reviewing this evidence based on guidance provided by the SMA. When the reviewer determines that the provider has achieved compliance, the determination will be sent to the SMA and follow the process described above.</p> <ul style="list-style-type: none"> • If remediation is complex and requires additional time, the provider will be required to submit a remediation plan that identifies the remediation steps and timeline proposed by the provider. • SMA will review plans for response to areas of concern and advise provider of any issues. Remediation plans must identify remediation steps that will be completed. 	
WL10.0	Completion of residential provider remediation: 75%	<ul style="list-style-type: none"> • Validations of provider remediation. • Compliance will be re-assessed upon notification by the provider that the remediation plan has been implemented and validated through review of evidence submitted by the provider or during a follow-up site visit. 	Completed 12/31/2017
WL11.0	Completion of residential provider remediation: 100%	<ul style="list-style-type: none"> • SMA conducts a follow-up validation review of evidence submitted by the provider or a site visit, if deemed necessary, and determines whether the setting now meets the HCBS settings rule criteria. • Upon notice of unmet HCBS settings rule criteria, a provider who does not wish to comply may notify the SMA at any point in the assessment and remediation process. 	Completed 9/30/2018
Nonresidential Settings – Assessment			
WL05.1	Completion of site-specific assessment	Nonresidential – The SMA will review each submitted non-residential provider self-assessment to make a preliminary determination as to whether compliance criteria were met or not met.	10/01/2021
Nonresidential Settings – Remediation			
WL12.0	Completion of nonresidential provider remediation: 25%	Provider remediation activities occur.	Completed 12/15/2020
WL13.0	Completion of nonresidential provider remediation: 50%	<ul style="list-style-type: none"> • Provider remediation plans submitted as required by DHS. • Provider remediation activities occurring. 	Completed 2/05/2021
WL14.0	Completion of nonresidential provider remediation: 75%	<ul style="list-style-type: none"> • Provider remediation plans submitted as required by DHS. • Provider remediation activities occurring. 	8/30/2021

Milestone Reference #	Milestone	Description	Status
WI.15.0	Completion and validation of nonresidential provider remediation: 100%	Validation of provider remediation. SMA conducts a follow up compliance review and determines whether setting is now compliant.	10/01/2022
Heightened Scrutiny – Residential and Nonresidential Settings			
WI.17.0	Identification of and communication with settings that are subject to heightened scrutiny review process	Identify settings that are subject to heightened scrutiny. This milestone was completed 9/30/2020. This was an active process throughout 2018-2019. Remaining settings requiring heightened scrutiny were contacted in 2020	Completed 9/30/20
WI.18.0	Complete gathering information and evidence on settings requiring heightened scrutiny that it will presented to CMS	The SMA assigned HCBS reviewers to review the documentation provided by each setting, make follow-up contacts to the setting for clarifications and additional information, and conduct an on-site assessments. This was an active process throughout 2018-2020; onsite assessments were not conducted in 2020 due to the public health emergency. A 30-day public comment period was held 2/23/21 to 3/24/21. The list of reviewed settings that the state believes will overcome the institutional assumption was submitted to CMS on 4/02/2021. (See Appendix 4 of this Statewide Transition Plan.)	Completed 12/30/2020
WI.20.0	Submit STP with Heightened Scrutiny information to CMS for review	Only those settings that are determined to have satisfied the SMA heightened scrutiny review process will be submitted to Secretary of DHHS for federal review.	09/30//2021
Transition			
WI.16.0	Identification of settings that will not remain in the HCBS System	After review of all remediation plans and final determination of compliance, the SMA will issue a report identifying settings determined to comply with the HCBS settings rule. This report will be provided to all waiver agencies and will be readily available to the public, including program participants, families, and providers.	3/01/2023
WI.21.0 – 25% complete	Complete notifying member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCBS settings requirements and that resolution or alternate funding sources need to be considered: 25%	<ul style="list-style-type: none"> People who will be affected by the noncompliance of a provider will be issued written notice and ensured due process. A minimum of 30 days in advance of a transition, the waiver agency will issue each participant or legal representative written notice, in language specified by the SMA, and including notice of the right to due process, that the person will need to transition due to noncompliance by the provider 	7/01/2022
WI.22.0 – 50% Complete			8/01/2022
WI.23.0 – 75% Complete			09/01/2022
WI.24.0 – 100% Complete			12/31/2022

Milestone Reference #	Milestone	Description	Status
WI.25.0	Complete beneficiary resolution: 25% Complete	<ul style="list-style-type: none"> Participant transition or loss of waiver funding target start date is as soon as waiver agencies are aware that a given provider will not comply The waiver agency will utilize the person-centered planning process to identify other compliant settings for affected individuals. Care managers and interdisciplinary teams will work with each person affected and their families or guardians to provide a choice of compliant settings, including settings that are not disability specific 	11/01/2022
WI.26.0	Complete beneficiary resolution: 50%	The waiver agency will meet all required person-centered care planning and care plan development processes and practices and provide all necessary supports to the person who will transition.	12/01/2022
WI.27.0	Complete beneficiary resolution: 75%	The SMA established timeframes with the following priorities: Provide enough time for the SMA to diligently conduct on-site provider assessments.	01/01/2023
WI.28.0	Complete beneficiary resolution: 100%	The SMA established timeframes with the following priorities: Provide enough time for the SMA to diligently conduct on-site provider assessments.	03/01/2023
Statewide Transition Plan			
WI.06.0	Incorporate results of settings analysis into final version of the STP and release for public comment	The results of residential and non-residential settings analyses has been incorporated into the final version of the STP. It will be released for a 30-day public comment period in July 2021.	6/30/2021
WI.19.0	Incorporate list of settings requiring heightened scrutiny and information and evidence referenced in WI.18.0 above into the final version of STP and release for public comment	The list of settings requiring heightened scrutiny was incorporated into the final version of the STP as Appendix 4. The list of heightened scrutiny settings and related evidentiary documents were released for a 30-day public comment period from 2/23/21 to 3/24/21.	9/30/2021
WI.07.0	Submit final STP to CMS		1/31/2022

X. Public Input

The SMA, in accordance with federal requirements, solicited public comments on its Statewide Transition Plan for Compliance with the Medicaid Home and Community-Based Setting Requirements of the Medicaid Home and Community-Based Services Final Regulation at CMS 2249-F/2296-F. On ##### ##, 2021, the revised draft plan was posted on the SMA website for public review and comment (www.dhs.wisconsin.gov/hcbs/index.htm). Comments were accepted through ##### ##, 2021. Notice of the

review and comment period was published in ## major newspapers throughout the state. A paper copy of the Statewide Transition Plan was mailed to ## parties upon request by phone or mail.

The plan, originally posted on November 26, 2014 and, as revised on March 1, 2017, and as updated to final on #####, 2021, was reposted to provide opportunity to comment on changes made to the document in response to federal feedback.

The public was able to submit comments by email at dhsltepubliccomment@dhs.wisconsin.gov.

Written comments were also accepted when mailed to the address below:

Department of Health Services
Statewide Transition Plan - Comment
P.O. Box 309
1 W. Wilson St., Room 518
Madison, WI 53701-0309

Summary of public comments and SMA response:

Insert summary of comments here.

APPENDIX 1

Acronyms Used in Statewide Transition Plan

C.F.R.	Code of Federal Regulations
CIE	Community Integrated Employment
CIP	Community Integration Program
CLTS	Children's Long-Term Support
CMS	Centers for Medicare and Medicaid Services
COP	Community Option Program
DHHS	Federal Department of Health and Human Services
DHS	Department of Health Services, State of Wisconsin
DQA	Division of Quality Assurance, State of Wisconsin
HCBS	Home and Community-Based Services
IRIS	Include, Respect, I Self-Direct program
LTSS	Long-Term Services and Supports
MCO	Managed Care Organization
MFP	Money Follows the Person
P4P	Pay for Performance
SMA	State Medicaid Agency
WHEDA	Wisconsin Housing and Economic Development Authority

APPENDIX 2

Summary of Wisconsin Waiver Services⁷ and Typical Service Delivery Settings

Services—including in all waivers unless specified (CLTS, IRIS, Family Care)	Service Delivery Settings
Adaptive aids	Not applicable (N/A)
Adult day care	Fixed-site facilities or private residences (not provided in the participant's residence)
Adult day services	Fixed-site facility(ies) and/or natural settings in the community at large (not provided in the participant's residence)
Adult family homes (1-2 bed resident certified settings and 3-4 bed resident licensed settings)	Houses, apartments, or other residential structures owned or leased by provider
Care management/support and service coordination/IRIS consultant services	Various locations as convenient for the participant — residence, site(s) of day activities, program offices, etc.
Child day care (CLTS)	Centers, private residences
Child foster care homes (CLTS)	Private family residences in the community
Children's day services settings (CLTS)	Fixed-site facilities and/or natural settings in the community at large (not provided in the participant's residence)
Assistive technology/communication aids (includes interpreter service)	N/A
Community-based residential facilities (5 or more residents)	Fixed-site facilities
Community supported living	This is a service option that combines or helps to coordinate many of the services listed elsewhere in this document. Persons receiving community supported living cannot live in a provider owned or controlled setting.
Consultative clinical and therapeutic services for caregivers (Family Care)	Various locations as relevant to type of services— participant's residence, site(s) of day activities, natural community locations, professional offices, etc. Service is provided to caregivers, not program participants.
Consumer/family directed supports (CLTS only)	This is a specific self-directed service option that includes many of the services listed elsewhere in this document.
Consumer education and training	Various locations as relevant to skills being developed— residence, site(s) of other day activities, natural community locations, program offices, etc.

⁷ Individual waivers may have slightly different names for particular services, but they are grouped here when they are essentially the same service.

Services—including in all waivers unless specified (CLTS, IRIS, Family Care)	Service Delivery Settings
Counseling and therapeutic resources	Various locations as convenient for the participant—residence, site(s) of day activities, professional offices, etc.
Customized goods and services	Various locations as relevant to goods or services—residence, site(s) of other day activities, natural community locations, program offices, etc.
Daily living skills training	Various locations as relevant to skills being developed—residence, site(s) of other day activities, natural community locations, program offices, etc.
Environmental accessibility adaptations (home modifications)	N/A
Financial management services/fiscal employer agent services	Most financial management services do not involve regular contact with the participant, but in cases where that is needed, it would occur in various locations as convenient for the participant—residence, site(s) of day activities, program offices, etc.
Home-delivered meals	Residence
Housing counseling	Various locations as convenient for the participant—residence, site(s) of day activities, program offices, etc.
Housing start-up	N/A
Live-in caregiver (IRIS)	Residence
Personal emergency response system (PERS)	N/A
Prevocational services	Fixed-site facilities and/or natural settings in the community. Prevocational services may be furnished in a variety of locations in the community and are not limited to fixed-site facilities.
Relocation housing start-up and related utility costs	N/A
Residential care apartment complexes (IRIS and Family Care)	Residential structures consisting of independent apartments with living, sleeping, and cooking facilities
Respite care services	Private residences (controlled by participant or provider), licensed or certified residential settings, institutional settings as allowed per approved waivers. Respite in institutional settings will be limited to 30 days. This clarification will be made in waivers as well as contracts and policies.
Self-directed personal care (Family Care)	Residence and to enable access to the community
Level 5 exceptional treatment foster home (CLTS)	Private residences in the community
Skilled nursing (not covered by state plan)	Various non-clinical locations as appropriate to the service being provided—residence, site(s) of day activities, etc.
Specialized medical equipment and supplies	N/A

Services—including in all waivers unless specified (CLTS, IRIS, Family Care)	Service Delivery Settings
Specialized transportation—community transportation	N/A
Specialized transportation—other (self-directed non-emergency medical transportation) (IRIS, Family Care)	N/A
Support broker (IRIS, Family Care)	Various locations as convenient for the participant—residence, site(s) of day activities, program offices, etc.
Supported employment—individual and small group support services	Regular business or industry work settings and other sites of employment in the community. Not facility-based.
Supportive home care	Residence and to enable access to the community
Training services for unpaid caregivers (Family Care)	Various locations as relevant to type of training being provided—participant’s residence, site(s) of day activities, natural community locations, professional offices, etc. Service is provided to caregivers, not program participants.
Vocational futures planning and support	Various locations as convenient for the participant—residence, site(s) of day activities, places of participant employment, professional offices, etc.

APPENDIX 3

Crosswalk for Systemic Assessment for HCBS Statewide Transition Plan

Waiver policies that apply across settings: Wisconsin has language in its contracts and/or program-specific policies that apply across all waiver services and settings, including policies addressing person-centered planning and choice of services, settings, providers, and participant rights. These policies are found in the following documents and are cited as they apply to specific HCBS settings rule requirements.

[DHS-MCO Contract](#) (All references in this document are to the 2016 contract.)

[Medicaid Waivers Manual](#)

[IRIS Policy Manual](#)

[IRIS Work Instructions](#)

[IRIS Service Definition Manual](#)

[Being a Full Partner](#) (Family Care member booklet)

Participant rights protection that applies across settings: All waiver programs must comply with Wis. Stat. ch. 51 and Wis. Admin. Code ch. DHS 94 addressing participant rights and the use of isolation, seclusion, or physical restraint. All waiver agencies must comply with these requirements pursuant to language and references in contracts and waiver policy documents.

<http://docs.legis.wisconsin.gov/statutes/statutes/51.pdf>

http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/94.pdf

<https://www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf>

Crosswalk Table 1: Cross-Cutting Requirements

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Person-Centered Planning</p> <p>Family Care: “The MCP shall document at least the following:</p> <p>g) The setting in which the member resides supports integration into the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.</p> <p>j) The plan to sustain, maintain and/or enhance the member’s existing natural supports and community supports and for coordinating services the member receives from such supports.” (DHS-MCO contract, Article V, C)</p> <p>CIP/COP/CLTS: “The Medicaid waiver programs are built upon a foundation of primary program values. These values support individual choice, the enhancement of relationships, the building of accessible, flexible service systems, the achievement of optimum physical and mental health for the participant, and</p>	<p>Compliant for Family Care</p> <p>Language in both the Medicaid Waivers Manual and the IRIS Policy Manual</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>the promotion of presence, participation and optimal social functioning in the community. The program values further seek to ensure that participants are treated with respect and assure that service systems empower the individual, build on their strengths, enhance individual self-worth and supply the tools necessary to achieve maximum independence and community participation.” (Medicaid Waivers Manual, 1.01)</p> <p>IRIS: IRIS is a fully self-directed program. IRIS participants make their own decisions regarding:</p> <ul style="list-style-type: none"> • “The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes. • The amount and location goods, supports, and services are provided, as well as decisions on the provider of these services.” (IRIS Policy Manual, 1.1C) 	<p>is consistent with settings rule, but the following language will be added to those documents. It will be inserted in an appropriate section and numbered per the format of the document.</p> <p>“The plan shall document at least the following:</p> <p>a) The setting in which the member resides supports integration into the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.</p> <p>b) The plan to sustain, maintain and/or enhance the member’s existing natural supports and community supports and for coordinating services the member receives from such supports.”</p>
<p>§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents—see links at the beginning of this table.)</p> <p>Family Care – “The MCP shall document at least the following:</p> <p>e) The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options;” (DHS-MCO contract, Article V, C)</p> <p>“As a member, you have the right and responsibility to be a full partner in deciding what you need for your health and long-term support services, and in planning how those services will be provided to you. Being a full partner in your care plan means you have the right to:</p> <ul style="list-style-type: none"> • Participate in decisions that affect your own care. 	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<ul style="list-style-type: none"> Choose to involve family members or other people that are important to you. Describe your most important support needs, and what you want your life to be like. Know the different services and supports that are available and how much they cost. You can also suggest other services or supports that you think would meet your needs. Get help from your MCO to make choices about your services and supports. <p>As a full partner, you also have the responsibility to:</p> <ul style="list-style-type: none"> Meet with your care team face-to-face to discuss your needs, outcomes and preferences. Choose among the cost-effective options that are available to meet your needs. Identify the support your family and friends currently provide, and what they can continue to provide.” (Being a Full Partner, member-focused document) <p>CIP/COP/CLTS: “All Medicaid waiver participants must be given a choice of qualified service providers when the person first applies for waiver services and upon request, at any time while the participant is receiving waiver services. Waiver participants must be informed of their right to choose from any willing and qualified providers during any review of the individual service plan. Information provided to waiver applicants and participants must include a description of all qualified providers available for the waiver-covered services they are authorized to receive.” (Medicaid Waivers Manual, 4.03)</p> <p>COP-W: Before waiver funding can be used for a community-based residential facility (CBRF) of up to 20 beds, four criteria must be met. For CBRFs with more than 20 beds or structurally connected to a nursing home, the waiver agency must request a variance from the DHS on a case-by-case basis. The basic criteria include:</p> <p>“a. A determination that in-home care services are infeasible, b. A determination that the CBRF is the person’s preferred residence, c. A determination that the CBRF provides a quality environment and quality care services, d. A determination that the CBRF is cost-effective when compared to other residential options.”</p> <p>In the case of a variance, the additional criteria include:</p> <p>“a. The environment is non-institutional and the facility operates in a manner that enhances resident dignity and independence, and b. The facility is the preferred residence of the applicant/participant or his/her, legal representative.” (Medicaid Waivers Manual, Chapter 5)</p>	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>CIP-W: Waiver funds may not be used for a setting in excess of eight beds. (Summarized from Medicaid Waivers Manual, Chapter 5)</p> <p>CLTS: CLTS waiver funds may only be used for adult family homes (1-2 bed or 3-4 bed). (Summarized from Medicaid Waivers Manual, Chapter 5)</p> <p>IRIS: IRIS is a fully self-directed program. IRIS participants make their own decisions regarding:</p> <ul style="list-style-type: none"> • “The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes. • The amount and location goods, supports, and services are provided, as well as decisions on the provider of these services.” (IRIS Policy Manual, 1.1C) 	
<p>§ 441.301(c)(4)(iii) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Restraints: Use of isolation, seclusion, or physical restraint in community settings is closely scrutinized per state statute and administrative code. While the statute and code apply to “any individual who is receiving services for mental illness, developmental disabilities, alcoholism or drug dependency,” DHS applies it to all waiver participants. (Quoted language from Wis. Stat. § 51.61(1))</p> <p>State Statute: Individuals shall “have a right to be free from physical restraint and isolation except for emergency situations or when isolation or restraint is a part of a treatment program. Isolation or restraint may be used only when less restrictive measures are ineffective or not feasible and shall be used for the shortest time possible.” (Wis. Stat. § 51.61(1)(i)1)</p> <p>Administrative Code: “For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place.” (Wis. Admin. Code § DHS 94.10)</p> <p>Department policy: DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p>	<p>Compliant—policies support limitations on the use of restraints in all community settings.</p> <p>In all programs, the approved restrictive measure or restraint must be incorporated into the overall behavior plan and is considered a key component of the person’s individual plan.</p> <p>See setting specific - sections in regard to individual rights and freedom from coercion.</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>Family Care: “Use of Isolation, Seclusion and Restrictive Measures The MCO shall comply with, and as needed, provide training for its providers in compliance with the following requirements: a. The MCO shall review and approve each request for restrictive measures involving any one or more of its members prior to submission of the request to the designated state level approving entity. b. The MCO and its subcontracted providers shall follow the Department’s written guidelines and procedures on the use of isolation, seclusion and restrictive measures in community settings, and follow the required process for approval of such measures (www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf). c. The use of isolation, seclusion and restrictive measures in licensed facilities in Wisconsin is regulated by the Department’s Division of Quality Assurance. When subcontracted providers of the MCO are subject to such regulation, the MCO shall not interfere with the procedures of the Division of Quality Assurance. d. The MCO and its subcontracted providers shall comply with Wis. Stat. §§ 51.61(1)(i) and 46.90(1)(i) and Wis. Admin. Code § DHS 94.10 in any use of isolation, seclusion and restrictive measures.” (DHS-MCO contract, Article V, J.)</p> <p>“Subcontract Language: 9. Restrictive Measures The MCO must require its subcontractors to adhere to regulatory requirements and standards set by the MCO relative to restrictive measures including any type of restraint, isolation, seclusion, protective equipment, or medical restraint as required in Article V.J.4. Use of Isolation, Seclusion and Restrictive Measures, page 67.” (DHS-MCO Contract Article VIII)</p> <p>CIP/COP/CLTS: “Wisconsin’s community-based long term support system is based on the principles of respect, dignity, community integration, consumer participation and choice. The waiver gives people the opportunity to live in the community, including people who may exhibit dangerous and challenging behavior or who may have complex medical needs. The Medicaid Waivers covered in this Manual support and promote these principles by providing community living opportunities that are safe and free from the use of restrictive measures to the extent possible. Most of the participants who are served by the waiver are covered by the provisions in s.51.61 Wis. Statutes giving people the right to be free of restraints. Others not covered by that statute are protected by the Wisconsin elder-adults/adults-at-risk laws (Wis. Stats s.46.90 (1) (a) 5.) which provides protection from the use of unreasonable confinement or restraint by including restraint under the definition of abuse. “Unreasonable confinement or restraint” includes the intentional and</p>	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices in entities regulated by the department if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.</p> <p>For a waiver participant covered by s.51.61 Wis. Stats and HFS 94 including HFS 94.10, information and materials on the application and approval process for the use of restrictive measures are provided in Appendix R. Separate guidelines have been developed for different target groups.” (Medicaid Waivers Manual, 8.05)</p> <p>IRIS: “The use of restraints requires written approval by the Department of Health Services (DHS) prior to implementation.” (IRIS Policy Manual, 4.3)</p> <p>“4.3A.1 Restrictive Measures Business Rules</p> <ol style="list-style-type: none"> 1. The Department of Health Services (DHS) does not permit the unapproved use of restrictive measures except in the case of an emergency. The emergency (unapproved) use of restrictive measures is only permitted when the following conditions are present: <ul style="list-style-type: none"> • An emergency exists; • A participant’s behavior poses an immediate threat of harm to self or others; • There is no approved behavior support plan for that participant that includes the planned use of restraint, isolation, or protective equipment intended to address this behavior or there is an approved plan but it has been found to be ineffective; • The behavior in question has either not occurred previously or could not have been reasonably foreseen to occur based on observations of the participant’s behavior. 2. The IRIS Consultant Agency (ICA) must complete and submit an Incident Report – Medicaid Waiver Programs (F-22541) each time unauthorized or emergency restrictive measures are used. 3. The IRIS Consultant is responsible to provide the participant or legal representative with education on the restrictive measures process using the Participant Education: Restrictive Measures (F-01205M) form during the orientation process and annually. 4. Each ICA is responsible to ensure that its IRIS Consultants receive Department-approved training encompassing the following information during the orientation process and annually: 	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<ul style="list-style-type: none"> • Utilizing the Long Term Care Functional Screen and other parts of the participant's record as tools to identify behaviors; • Identifying behaviors in the home and community; • Developing strategies to support behaviors in the least restrictive way possible; • Developing communication skills related to discussing behaviors with families; • Identifying restrictive measures; • Following the guidelines and requirements for the use of restrictive measures and these work instructions; and • Developing strategies to replace challenging behaviors with positive behaviors. <p>5. The IRIS Consultant must discuss the effectiveness of the restrictive measures plan at every contact with the participant and/or legal representative whether by phone or email, or in person. These discussions must be documented in detail in the case notes." (IRIS Work Instructions)</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Family Care: "As a member, you have the right and responsibility to be a full partner in deciding what you need for your health and long-term support services, and in planning how those services will be provided to you.</p> <p>Being a full partner in your care plan means you have the right to:</p> <ul style="list-style-type: none"> • Participate in decisions that affect your own care. • Choose to involve family members or other people that are important to you. • Describe your most important support needs, and what you want your life to be like. • Know the different services and supports that are available and how much they cost. You can also suggest other services or supports that you think would meet your needs. • Get help from your MCO to make choices about your services and supports. <p>As a full partner, you also have the responsibility to:</p> <ul style="list-style-type: none"> • Meet with your care team face-to-face to discuss your needs, outcomes and preferences. • Choose among the cost-effective options that are available to meet your needs. • Identify the support your family and friends currently provide, and what they can continue to provide." (Being a Full Partner-member focused document) <p>COP/CIP/CLTS: "1. You have a right to be treated with dignity and respect. This includes the right to free association to see whom you want, when you want unless a court order states otherwise.</p> 	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>2. You have a right to control your life and the services you get as much as you are able. You have the right to choose where you live, if you live alone or with others and with whom you will live. You have the right to be told that if you choose to live in certain settings, you may lose your eligibility for funding under the Medicaid Waiver.</p> <p>3. You have a right not to be hurt or threatened. You have the right to be free from abuse and neglect. You have a right to be free from restrictive measures and all unreasonable restraints. You have the right to refuse to take drugs you do not want to take unless ordered to do so by a court of law.</p> <p>4. You have the right to privacy. Your right to privacy includes having information that is said or written about you kept confidential, the right to receive and open your own mail, to make and receive private phone calls and to have visitors in your private areas including your bedroom and have the door closed.</p> <p>5. You have a right to see your file, have it corrected, and to get copies of reports in it.</p> <p>6. You have the right to direct you own services within the rules of the waiver in which you are enrolled. You have the right to have the self-directed service option explained to you and made available.</p> <p>7. You have the right to know what other rights apply to you. You may have rights because of where you live (e.g. in a group home (CBRF)), because a court was involved in your services, or because of the nature of your disability. Waiver agency staff are responsible for telling you about these rights and for making sure you are adequately informed about them.”</p> <p>www.dhs.wisconsin.gov/waivermanual/appndx-m2.pdf</p> <p>IRIS:</p> <p>“1.2A Participant: The essential leadership role of participants in planning and purchasing goods, supports, and services is recognized within the IRIS program structures. The participant is the eligible individual who chooses IRIS as the program for needed publicly funded long-term care supports and services. In this manual, ‘participant’ means:</p> <ul style="list-style-type: none"> • The participant acting independently on their own, or with the assistance of a person designated by the participant; or • A legal representative when the representative has authority to make pertinent decisions on behalf of the participant (e.g., guardian). <p>The IRIS participant has three key roles in self-directing their goods, supports, and services in IRIS, as well as responsibilities related to those roles.</p> <p>1.2A.1 Decision-Making: Participants in the IRIS program have made a choice to self-direct all of their long-term care services and supports. This provides participants a high degree of choice and control over services and supports delivered. Participants</p>	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>develop their support and service plans, within their individual budget range, and direct the services and supports identified on their plans. Participants are responsible to work with their IRIS Consultant, the IRIS consultant agency and the IRIS fiscal employer agent to implement their plans.</p> <p>1.2A.2 Participant Budget Authority: Participants manage and direct an individual service budget. The person's plan defines the goods and services that will be paid to meet their long-term care needs consistent with their approved support and service plan. Participants do not set the level of funds they have available; however, they do exercise choice over how those funds are spent. Participants are accountable for the use of IRIS funds consistent with their long-term care support and service plan, established policies and procedures, and the federal waiver authority for IRIS. Payment for authorized services and supports is made through the FEA. Participants do not receive the funds in their budget; rather payment is made through these third parties for authorized expenditures.</p> <p>1.2A.3 Participant Employer Authority: Participants may hire, manage and direct their paid workers or care providers. There are two ways in which IRIS participants can carry out their employer role. One is as a common law employer, and the other is as a co-employer with an agency. A common law employer role occurs when a participant serves as the employer of record and engages in all typical employer responsibilities. These responsibilities include recruiting and hiring workers; training, scheduling and directing workers; and reviewing and approving timesheets and other documentation. If the participant chooses to be a co-employer then the responsibility of the employer tasks is shared with a qualified agency, and that agency serves as the employer of record." (IRIS Policy Manual)</p>	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability-specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents.)</p> <p>Family Care: "A. Member Choice 1. Information to Members The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable." (DHS-MCO Contract, Article VIII)</p> <p>CIP/COP/CLTS: "All Medicaid waiver participants must be given a choice of qualified service providers when the person first applies for waiver services and upon request, at any time while the participant is receiving waiver services. Waiver participants</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>must be informed of their right to choose from any willing and qualified providers during any review of the individual service plan. Information provided to waiver applicants and participants must include a description of all qualified providers available for the waiver-covered services they are authorized to receive.” (Medicaid Waivers Manual)</p> <p>IRIS: IRIS is a fully self-directed program. IRIS participants make their own decisions regarding:</p> <ul style="list-style-type: none"> • “The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes. • The amount and location goods, supports, and services are provided, as well as decisions on the provider of these services.” (IRIS Policy Manual, 1.1C) 	
§ 441.301(c)(4)(vi) PROVIDER OWNED OR CONTROLLED RESIDENTIAL SETTINGS		
<p>§ 441.301(c)(4)(vi)(A) 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 that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law.</p>	See setting-specific tables.	
<p>§ 441.301(c)(4)(vi)(B) Each individual has privacy in their sleeping or living unit: 1: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	See setting-specific tables.	
<p>§ 441.301(c)(4)(vi)(B) 2: Individuals sharing units have a</p>	<p>Person-Centered Planning: See all references above to person-centered planning.</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
choice of roommates in that setting.	Additional reference: Family Care: Provider Network: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” (DHS-MCO Contract, Article VIII)	
§ 441.301(c)(4)(vi)(B) 3: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	See setting-specific tables.	
§ 441.301(c)(4)(vi)(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	See setting-specific tables.	
§ 441.301(c)(4)(vi)(D) Individuals are able to have visitors of their choosing at any time.	See setting-specific tables.	
§ 441.301(c)(4)(vi)(E) The setting is physically accessible to the individual.	MCOs must ensure that the provider network includes: “Services that are physically accessible and available on a timely basis.” (DHS-MCO contract, Article VIII)	
F: Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: 1: Identify a specific and individualized need. 2: Document the positive interventions and supports used prior to any modifications to the person-centered service plan. 3: Document less intrusive methods of meeting the need that have been tried but did not work 4: Include a clear description of the condition that is directly proportionate to the specific assessed need.	Person-Centered Planning: Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the settings rule. Person-centered plans that include one or more exceptions must incorporate the information identified in this section of the settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents.) Family Care: “The MCP shall document at least the following: e) For members residing in a provider-owned or controlled residential setting, the MCP must document that any modification of the standards listed under 42 C.F.R. § 441.301(4)(vi) A through D are supported by a specific assessed need and justified in the MCP. Specifically, this documentation must include: (1) the identification of a specific and individualized assessed need; (2) the positive interventions and supports used prior to any modifications to the MCP; (3) the less intrusive methods of meeting the need that have been tried but did not work; (4) a clear description of the condition that is directly proportionate to the specific assessed need; (5) the regular collection and review of data to measure the ongoing effectiveness of the modification; (6) the established time limits for periodic; reviews to determine if the modification is still necessary or can be terminated; (7) the informed consent of the	Compliant While we believe that the IRIS language complies with the rule, the language that is in the Family Care contract will be added to the IRIS Policy Manual with modifications that are consistent with the language used in IRIS. “The plan shall document at least the following: a) For participants residing in a provider-owned or controlled residential setting, the plan must document that any modification of the standards listed under 42 C.F.R. § 441.301(4)(vi) A through D are supported by a specific assessed need and justified in the plan. Specifically, this

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>5: Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>6: Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>7: Include the informed consent of the individual.</p> <p>8: Include an assurance that interventions and supports will cause no harm to the individual.</p>	<p>individual and (8) an assurance that interventions and supports will cause no harm to the individual.” (DHS-MCO contract, Article V, C)</p> <p><i>IRIS:</i> “On an annual basis, participants and IRIS consultants reassess the needs and long-term care outcomes of the participant by evaluating the results of the annual LTC FS, the behavior assessment (when required), and the participant’s progress on the outcomes identified on the previous year’s ISSP. The participant and IRIS consultant collaborate to ensure the new ISSP is an accurate and current reflection of the participant’s needs and the ISSP adequately supports the participant’s long-term care outcomes with IRIS –funded services used as a last resort.” (IRIS Policy Manual, 4.2)</p>	<p>documentation must include: (1) the identification of a specific and individualized assessed need; (2) the positive interventions and supports used prior to any modifications to the plan; (3) the less intrusive methods of meeting the need that have been tried but did not work; (4) a clear description of the condition that is directly proportionate to the specific assessed need; (5) the regular collection and review of data to measure the ongoing effectiveness of the modification; (6) the established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; (7) the informed consent of the individual; and (8) an assurance that interventions and supports will cause no harm to the individual.”</p>

Residential Settings: Adult

Note regarding adult residential settings: The regulatory standards for 3-4 bed adult family homes, community-based residential facilities, and residential care apartment complexes do not prohibit them from being located in an institution or on the grounds of, or adjacent to, a public institution, but may include special criteria to be taken into account when community-based settings are collocated with institutional settings. The extent to which these criteria and other factors regarding specific settings comply with the rule will be evaluated as part of the heightened scrutiny process and are not assessed in the crosswalk tables.

Certified Adult Family Home (AFH): DHS Standards and Administrative Code

- [Wisconsin Medicaid Standards for Certified 1-2 Bed Adult Family Homes](#)
- http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/82

Definitions

Certified 1-2 Bed Adult Family Home: A place where one or two adults reside and receive care, treatment, or services that are above the level of room and board. The AFH may be the primary domicile of the sponsor or certificate holder or may be operated by an agency using staff that may or may not live in the home.

Adult Family Home Certified Under Wis. Admin. Code ch. DHS 82: “Adult family home” or ‘home’ means a private residence in which care and maintenance above the level of room and board, but not including nursing care provided by the sponsor, are provided to developmentally disabled adults by a person whose primary domicile is that residence, provided that both of the following conditions apply:

- (a) The residence was licensed under s. 48.62, Stats., and Chapter DCF 56 as a foster home and all current adult residents resided in the residence at least 12 months before they reached 18 years of age or replaced former adult residents who resided in the residence sometime during the previous 12 months and who left the residence on a permanent basis; and
- (b) There are 3 or 4 developmentally disabled residents, or more than 4 if all are siblings, or the sponsor is currently licensed as a foster home for children and there is a combined total of no more than 4 developmentally disabled adults and children residing there, or more than 4 if all adults or all children are siblings.”

Crosswalk Table 2: One-Two Bed Adult Family Home

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: “A 1-2 bed AFH may be located anywhere residences are permitted in the community, but should be located in anticipation of resident needs to get to employment opportunities or access community activities and supportive services. Considerations for location should minimize clustering numerous AFHs in close proximity.” (Standards, Article V)</p> <p>“Residents of Adult Family Homes retain all of their civil, legal and human rights. This includes their right to be served by the same governmental services as others in the community such as police, fire, rescue, building inspection, public health, protective services and other services. Sponsors, placing agencies, certifying agencies, guardians, family members and</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>others should use these services when appropriate.” (Standards, Article X)</p> <p>Person-Centered Planning: Placement decisions and person-centered plan must address how the home will provide opportunities for interactions with the community, including friends and other associates, and access to activities. (Summarized from Standards, Article IX)</p> <p>Rights: Residents have the right to manage personal finances or choose a separate service provider to assist. The resident must have freedom to have and use his or her own possessions and have a secure place to store them. (Summarized from Standards, Article X)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(iii) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Physical Requirements: The home environment must provide adequate space and features to allow for privacy. A resident’s bedroom may not be used by others for access to other areas in the home. The bedroom must be fully enclosed by floor to ceiling walls and a rigid door that shall have a lock if requested by the resident. (Summarized from Standards, Article V)</p> <p>Rights: A resident of an adult family home has the right to be free from physical, sexual, verbal, or emotional abuse or neglect; to be treated with courtesy, dignity, and respect; to have physical and personal privacy; to have records treated confidentially, and to be free from seclusion and restraints unless approved by DHS pursuant to the guidelines governing the use of such measures published by DHS. Use of restrictive measures under emergency conditions as defined in these guidelines shall be reported to the certifying agency by the next business day. (Summarized from Standards, Article X)</p> <p>“Any form of coercion to discourage or prevent a resident or the resident’s guardian, if any, from exercising any of the rights under this section, including the right to file a</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>grievance, is prohibited. Any form of coercion or retaliation by the sponsor, operator, staff, personnel from the sponsoring agency or any other agent of the Adult Family Home against a resident or the resident's guardian for exercising any of the rights in this section is prohibited. This includes a prohibition against coercion or retaliation against a service provider who assists a resident or the resident's guardian in exercising any of the residents' rights in this section. Violation of this provision may be grounds for termination of certification of the adult Family Home or the contract with the certification/funding agency." (Standards, Article X)</p> <p>"For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place." (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Physical Requirements: "The sponsor or operator shall provide a safe, emotionally stable, homelike and humane environment which encourages maximum resident self-direction, independence and autonomy." (Standards, Article IX)</p> <p>Person-Centered Planning: Placement decisions and the person-centered plan that are developed by the case management agency must address how the home will provide opportunities for interactions with the community, including friends and relatives, and access to activities. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>"The sponsor or operator shall implement the service plan and assist each resident to plan and execute activities that address individual needs and preference. The sponsor or operator shall also provide residents opportunities for</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>community presence and participation consistent with the resident's overall service plan developed by the placement agency. These may include participation in cultural, religious, political, social and intellectual activities of the resident's choice within the Adult Family Home and in the community. The sponsor or operator shall allow a resident to participate in any activities that the resident selects unless the activity involves an unacceptable risk of harm or is contrary to the resident's Adult Family Home service plan. Residents shall not be required or coerced to participate in any religious or other activities." (Standards, Article IX)</p> <p>Rights: A resident of an adult family home shall have the right:</p> <p>"To have the opportunity to make decisions relating to services, activities and other aspects of life in the Adult Family Home and community. No curfew, rule or other restrictions on a resident's self-determination may be imposed unless specifically identified in the service agreement or the resident's Adult Family Home service plan;"</p> <p>"To have private visitors and have adequate time and private space for visits and to meet with people of the resident's choosing and choose social and community activities in which to participate;"</p> <p>"To participate or to decline to participate in religious activities of the resident's choosing. No resident shall be required to engage in any religious activity;"</p> <p>"Each resident shall be provided the least restrictive conditions which allow the maximum amount of personal and physical freedom;" (Standards, Article X)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi) PROVIDER OWNED OR CONTROLLED RESIDENTIAL SETTINGS</p>		
<p>§ 441.301(c)(4)(vi)(A) 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</p>	<p>Each resident shall have a written agreement that is signed by, and provided to, each party. The agreement includes a "description of the space to be provided to the resident for sleeping, storage and any other uses," the agreed upon rate, a statement of the resident's rights and the terms of</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
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 that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	termination, including timeframes. The agreement is updated annually. (Summarized from Standards, Article IX)	
§ 441.301(c)(4)(vi)(B) Each individual has privacy in their sleeping or living unit: 1: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Physical Requirements: "The Adult Family Home shall provide space and adequate physical features such as doors and adequate interior sound control so residents can have privacy when the resident wishes to be alone and/or undisturbed." A resident's bedroom may not be used by others for access to other areas in the home. The bedroom must be fully enclosed by floor to ceiling walls and a rigid door that, if requested by the resident, shall have a lock that can be locked from the inside, and able to be opened from the outside in an emergency. (Summarized from Standards, Article V) Rights: A resident has the right "To have physical and personal privacy when receiving treatment and services, in the living arrangement, in caring for personal needs, including toileting, bathing and dressing and when he or she desires time alone." (Standards, Article X)	Partially Compliant Settings are only required to provide a lock at the request of the resident and the lock only needs to be lockable from inside the room. Remediation: The 1-2 bed AFH provider standards will be revised to require the presence of locks on the doors to all living units. The locks must be operational unless contraindicated based on a person-centered plan. The standards will specify that only authorized staff have keys to the doors.
§ 441.301(c)(4)(vi)(B) 2: Individuals sharing units have a choice of roommates in that setting.	Person-Centered Planning: "Residents shall not be required to share a bedroom," but if a shared bedroom is preferred, it must be agreed to by all parties. (Summarized from Standards, Article V)	Compliant
§ 441.301(c)(4)(vi)(B) 3: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Physical Requirements: "To the extent that space allows, residents shall be allowed to bring their own bedroom furnishings and accessories and to personalize/individualize their room." (Standards, Article V)	Compliant
§ 441.301(c)(4)(vi)(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Rights: A resident of an adult family home shall "... have the opportunity to make decisions relating to services, activities and other aspects of life in the Adult Family Home and community. No curfew, rule or other restrictions on a resident's self-determination may be imposed unless	Partially Compliant Standards indicate that the service agreement can identify curfews or restrictions. Language does

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>specifically identified in the service agreement or the resident's Adult Family Home service plan." (Standards, Article X)</p> <p>The resident must "... be permitted reasonable access to a telephone to make and receive a reasonable number of telephone calls. The number and duration of the calls may be limited for legitimate management reasons, but the Adult Family Home shall provide every resident the opportunity to make at least one private, personal telephone call per day."</p> <p>"The sponsor shall provide each resident with a quantity and variety of foods sufficient to meet the resident's nutritional needs and preferences and to maintain his or her health.</p> <p>The sponsor shall provide or assure that each resident receives three (3) nutritious meals each day. Residents will have access to all foods and liquids unless otherwise specified in a behavior support plan or an approved DHS restrictive measures plan. The sponsor shall accommodate the dietary needs of those residents with a physical/medical condition requiring more or less frequent meals." (Standards, Article IX)</p>	<p>not specify access to food at any time.</p> <p>Remediation: The 1-2 bed AFH provider standards will be revised to specify that the service agreement cannot include any restrictions unless identified in a person-centered plan, and that the individual has access to food at any time.</p> <p>The standards will be revised to clarify what is considered reasonable access to the phone.</p>
<p>§ 441.301(c)(4)(vi)(D) Individuals are able to have visitors of their choosing at any time.</p>	<p>Rights: A resident may "... have private visitors and have adequate time and private space for visits and to meet with people of the resident's choosing and choose social and community activities in which to participate.</p> <p>No curfew, rule or other restrictions on a resident's self-determination may be imposed unless specifically identified in the service agreement or the resident's Adult Family Home service plan." (Standards, Article X)</p>	<p>Partially Compliant</p> <p>Standards indicate that residents have "adequate time" for visitors and that the service agreement can identify curfews or restrictions.</p> <p>Remediation: The 1-2 bed AFH provider standards will be revised to require that residents may have visitors at any time and that the service agreement cannot include any restrictions unless identified in a person-centered plan.</p>
<p>§ 441.301(c)(4)(vi)(E) The setting is physically accessible to the individual.</p>	<p>Physical Requirements: "The Adult Family Home shall be physically accessible to all residents placed there and to prospective residents considering placement there. Residents shall be able to enter, exit and move about in the Adult Family Home and get to their bedrooms, bathrooms, common living and dining areas, and kitchen without difficulty. Non-ambulatory residents placed in the Adult Family Home shall have access to all common areas including living rooms and dining areas. Home modifications such as ramps, grab bars, widened doorways, etc. provided to address the non-ambulatory resident's assessed needs must be installed in the Adult Family Home prior to and as a</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	condition of that resident's placement. Failure to provide such modifications or adaptations may be grounds for termination of a placement." (Standards, Article V)	
<p>F: Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p> <p>1: Identify a specific and individualized need.</p> <p>2: Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</p> <p>3: Document less intrusive methods of meeting the need that have been tried but did not work</p> <p>4: Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>5: Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>6: Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>7: Include the informed consent of the individual.</p> <p>8: Include an assurance that interventions and supports will cause no harm to the individual.</p>	<p>Person-Centered Planning: Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the settings rule. Person-centered plans that include one or more exceptions must incorporate the information identified in this section of the settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>

3-4 Bed Adult Family Home (AFH): Statute and Administrative Code

- <http://docs.legis.wisconsin.gov/statutes/statutes/50>
- http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/88

Definition: A place where three or four adults who are not related to the operator reside and receive care, treatment, or services that are above the level of room and board and that may include up to seven hours per week of nursing care per resident.

Crosswalk Table 3: Three-Four Bed Adult Family Home

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: “An adult family home shall be located so that residents can easily get to community activities and supportive services by walking or by means of convenient private or public transportation or the licensee shall ensure that residents receive the assistance necessary to enable them to get to those activities and services. The home shall be located in a residential area which is typical of residential areas in that community.” (Wis. Admin. Code § DHS 88.05)</p> <p>Person-Centered Planning: Each resident must have an individual service plan that is developed in conjunction with the resident. Service plans must include how the provider will enable the resident “to participate in cultural, religious, political, social and intellectual activities within the home and community” and allow for services to be provided by other agencies. (Summarized from Wis. Admin. Code §§ DHS 88.05 and 88.06)</p> <p>“Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life.” These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from Wis. Admin. Code § DHS 88.07)</p> <p>Rights: Residents have the right to manage their own financial affairs, to retain and use personal clothing and effects, and have private visitors. (Summarized from Wis. Admin. Code § DHS 88.10)</p>	Compliant
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	(Wisconsin HCBS waivers, waiver-specific contracts, and policy documents) See Crosswalk Table 1 for references to contracts and waiver manuals.	
§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>Physical Requirements: "The licensee shall provide a safe, emotionally stable, homelike and humane environment for residents. ...The licensee shall encourage resident's autonomy, respect a resident's need for physical and emotional privacy and take a resident's preferences, choices and status as an adult into consideration while providing care, supervision and training." (Wis. Admin. Code § DHS 88.07)</p> <p>Rights: A resident shall have the right to be treated with courtesy, respect, and dignity; to physical and emotional privacy; to have records treated confidentially; to be free from physical, sexual, or mental abuse, neglect, and financial exploitation, or misappropriation of property; and to be free from seclusion and restraints unless approved by DHS pursuant to the guidelines governing use of restrictive measures. (Summarized from Wis. Admin. Code § DHS 88.10)</p> <p>"Any form of coercion to discourage or prevent a resident or the resident's guardian or designated representative from exercising any of the rights under this section is prohibited. Any form of coercion or retaliation against a resident or the resident's guardian or designated representative for exercising any of the rights in this section, or against a service provider who assists a resident or the resident's guardian or designated representative in exercising any of the resident's rights in this section, is prohibited." (Wis. Admin. Code § DHS 88.10)</p> <p>"For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place." (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Physical Requirements: “The licensee shall provide a safe, emotionally stable, homelike and humane environment for residents. The licensee shall encourage resident’s autonomy, respect a resident’s need for physical and emotional privacy and take a resident’s preferences, choices and status as an adult into consideration while providing care, supervision and training.” (Wis. Admin. Code § DHS 88.07)</p> <p>Person-Centered Planning: “The licensee shall encourage a resident’s autonomy, respect a resident’s need for physical and emotional privacy and take a resident’s preferences, choices and status as an adult into consideration while providing care, supervision and training. The licensee shall plan activities and services with the residents to accommodate individual resident needs and preferences and shall provide opportunities for each resident to participate in cultural, religious, political, social and intellectual activities within the home and community. A resident may not be compelled to participate in these activities. The licensee shall allow a resident to participate in all activities that the resident selects unless contrary to the resident’s individualized service plan or the home’s program statement.” (Wis. Admin. Code § DHS 88.07)</p> <p>Rights: The resident “... shall have opportunities to make decisions relating to care, activities and other aspects of life in the adult family home. No curfew, rule or other restrictions on a resident’s freedom of choice shall be imposed unless specifically identified in the home’s program statement or the resident’s individual service plan. An adult family home shall help any resident who expresses a preference for more independent living to contact any agency needed to arrange for it.” (Summarized from DHS 88.10)</p> <p>The resident has the right to “... meet with and participate in social and community activities at the resident’s own discretion” and “to participate in religious activities of the resident’s choice. No</p>	<p>Partially Compliant The program statement serves an important purpose of describing the home and its capacity to serve individuals. In the event that the program statement includes “house rules” that conflict with the HCBS settings rule, clarification will be necessary for waiver agencies when helping members select a setting.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other guidance will be revised to require the waiver agency to review the program statement for each three-four bed adult family home they consider contracting with to ensure that the program statement is compliant with the HCBS settings rule.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO Contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>resident may be required to engage in any religious activity.” The resident shall be allowed to “have private visitors and have adequate time and private space for visits.” (Summarized from DHS 88.10)</p> <p>Clarification Regarding the AFH Program Statement: “A home’s program statement shall describe the number and types of individuals the applicant is willing to accept into the home and whether the home is accessible to individuals with mobility problems. It shall also provide a brief description of the home, its location, the services available, who provides them and community resources available to residents who live within the home. A home shall follow its program statement. If a home makes any change in its program, the home shall revise its program statement and submit it to the licensing agency for approval 30 days before implementing the change.” (Wis. Admin. Code § DHS 88.03)</p> <p>As part of the initial licensing and ongoing survey process, Bureau of Assisted Living staff review the facility’s program statement to ensure it complies with the regulations, and also to ensure that any house rules, or other restrictions listed, do not violate a resident’s rights. Wisconsin Admin. Code § DHS 88.10(3) is clear that residents of an adult family home, except correctional clients, have basic rights that they do not lose when they enter an adult family home. Although Wis. Admin. Code § DHS 88.07 allows for some level of restriction, the restriction is typically within an individually developed care plan based on an assessed need with the appropriate level of approval.</p> <p>The Bureau of Assisted Living has not approved a program statement that violates a resident’s rights.</p>	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p> <p>The individual service plan for the 3-4 bed AFH shall identify any services that are to be provided by outside agencies. (Summarized from Wis. Admin. Code § DHS 88.06)</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>Rights: The resident of a 3-4 bed AFH has a right “...to exercise complete choice of providers of physical health care, mental health care and pharmaceutical services.” (Wis. Admin. Code § DHS 88.10)</p>	
§ 441.301(c)(4)(vi) PROVIDER OWNED OR CONTROLLED RESIDENTIAL SETTINGS		
<p>§ 441.301(c)(4)(vi)(A) 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 that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law.</p>	<p>“An adult family home shall have a service agreement with each person to be admitted to the home except a person being admitted for respite care.” (Wis. Admin. Code § DHS 88.06)</p> <p>“The service agreement shall be dated and signed by the licensee and the person being admitted or that person’s guardian or designated representative.” The service agreement shall specify the parties to the agreement, services to be provided, charges for room, board and services, the terms of payments, the conditions for transfer or discharge, and a statement of resident rights and grievance procedures. (Summarized from Wis. Admin. Code § DHS 88.06)</p> <p>“A licensee may terminate a resident’s placement only after giving the resident, the resident’s guardian, if any, the resident’s service coordinator, the placing agency, if any, and the designated representative, if any, 30 days written notice. The termination of a placement shall be consistent with the service agreement under s. DHS 88.06(2)(c)7. The 30 day notice is not required for an emergency termination necessary to prevent harm to the resident or other household members.” (Wis. Admin. Code § DHS 88.08)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi)(B) Each individual has privacy in their sleeping or living unit: 1: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Physical Requirements: A resident’s bedroom shall provide comfort and privacy, shall be enclosed by full height walls, and shall have a rigid door that the resident can open and close. A resident’s bedroom may not be used by anyone else to get to any other part of the home. Persons of the opposite sex shall not be required to occupy the same sleeping room. Accommodations shall be made for couples who wish to share a sleeping room. (Summarized from Wis. Admin. Code § DHS 88.05)</p> <p>Rights: The resident has the right to “have physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including toileting, bathing and dressing.” (Wis. Admin. Code § DHS 88.10)</p>	<p>Silent: The rule is silent regarding the provision of locking doors on sleeping units.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other program guidance (e.g., Waiver Manual) will be revised to require the presence of locks on the doors to all living units. The locks must be operational unless contraindicated based on a person-centered plan. The standards will specify that only appropriate staff have keys to the doors. These standards will be incorporated in waiver manuals</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
		<p>either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(B) 2: Individuals sharing units have a choice of roommates in that setting.</p>	<p>“Persons of the opposite sex shall not be required to occupy the same sleeping room. Accommodations shall be made for couples who wish to share a sleeping room.” (Wis. Admin. Code § DHS 88.05)</p> <p>Person-Centered Planning: Family Care Provider Network: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” (DHS-MCO Contract, Article VIII)</p>	<p>Silent: The rule is silent on the opportunity for choice of roommates, but personal preference for roommates and ability to choose a different setting if the individual is not satisfied with any potential roommates in a 3-4 bed setting, are the responsibility of the waiver agency in the person-centered planning process.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other program guidance (e.g., Waiver Manual) will be revised to ensure that the waiver agency is notified if no roommate who is acceptable to the participant is currently living in the setting so that the person-centered plan can be modified.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(B) 3: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>Rights: The resident shall have the right to “retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.” (Wis. Admin. Code § DHS 88.10)</p>	<p>Partially Compliant Rule does not specifically address furnishings and décor—just personal possessions.</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
		<p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other program guidance (e.g., Waiver Manual) will be revised to ensure that residents are given the option to furnish or decorate sleeping and living units to the extent feasible within the terms of the agreement.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>Physical Requirements: “The licensee shall provide a safe, emotionally stable, homelike and humane environment for residents.” (Wis. Admin. Code § DHS 88.07)</p> <p>“A home shall provide a non-pay telephone for residents to make and receive telephone calls. The home may require that long distance calls be made at a resident’s own expense. Emergency telephone numbers, including numbers for the fire department, police, hospital, physician, poison control center and ambulance, shall be located on or near each telephone.” (Wis. Admin. Code § DHS 88.04)</p> <p>Residents are allowed to “make and receive a reasonable number of telephone calls of reasonable duration and in privacy.” (Wis. Admin. Code § DHS 88.10)</p> <p>Person-Centered Planning: “The licensee shall encourage a resident’s autonomy, respect a resident’s need for physical and emotional privacy and take a resident’s preferences, choices and status as an adult into consideration while providing care, supervision and training.</p> <p>“The licensee shall plan activities and services with the residents to accommodate individual resident</p>	<p>Partially Compliant</p> <p>The program statement serves an important purpose of describing the home and its capacity to serve individuals. In the event that the program statement includes “house rules” that conflict with the HCBS settings rule, clarification will be necessary for waiver agencies when helping members select a setting. Language does not specify access to food at any time.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other guidance will be revised to require the waiver agency to review the program statement for each three-four bed adult family home they consider contracting with to ensure that the program statement is compliant with the HCBS settings rule. Standards will</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>needs and preferences and shall provide opportunities for each resident to participate in cultural, religious, political, social and intellectual activities within the home and community. A resident may not be compelled to participate in these activities.”</p> <p>“The licensee shall allow a resident to participate in all activities that the resident selects unless contrary to the resident’s individualized service plan or the home’s program statement.” (Wis. Admin. Code § DHS 88.07)</p> <p>Resident Care: “A licensee shall provide each resident with a food sufficient to meet the resident’s nutritional needs and preferences and to maintain the resident’s health.”</p> <p>“The licensee shall provide to each resident or ensure that each resident receives 3 nutritious meals each day and snacks that are typical in a family setting.” (Wis. Admin. Code § DHS 88.07)</p> <p>Clarification Regarding the AFH Program Statement: “A home's program statement shall describe the number and types of individuals the applicant is willing to accept into the home and whether the home is accessible to individuals with mobility problems. It shall also provide a brief description of the home, its location, the services available, who provides them and community resources available to residents who live within the home. A home shall follow its program statement. If a home makes any change in its program, the home shall revise its program statement and submit it to the licensing agency for approval 30 days before implementing the change.” (Wis. Admin. Code § DHS 88.03)</p> <p>As part of the initial licensing and ongoing survey process, Bureau of Assisted Living staff review the facility’s program statement to ensure it complies with the regulations, and also to ensure that any house rules, or other restrictions listed, do not violate a resident’s rights. Wisconsin Admin. Code § DHS 88.10(3) is clear that residents of an adult family home, except correctional clients, have basic rights that they do not lose when they enter an adult family home. Although Wis. Admin. Code § DHS 88.07 allows for some level of restriction, the restriction is typically within an individually developed care plan based on an assessed need with the appropriate level of approval.</p>	<p>identify that the person has access to food at any time.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definition manual.

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>§ 441.301(c)(4)(vi)(D) Individuals are able to have visitors of their choosing at any time.</p>	<p>The Bureau of Assisted Living has not approved a program statement that violates a resident’s rights.</p> <p>Rights: A resident has the right to “have private visitors and have adequate time and private space for visits.” (Wis. Admin. Code § DHS 88.10)</p>	<p>Partially Compliant The rule indicates that residents have “adequate time” for visitors.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other guidance will be revised to require that residents may have visitors at any time unless identified in a person-centered plan.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(E) The setting is physically accessible to the individual.</p>	<p>Physical Requirements: “An adult family home shall be physically accessible to all residents of the home. Residents shall be able to easily enter and exit the home, to easily get to their sleeping rooms, a bathroom, the kitchen and all common living areas in the home, and to easily move about in the home. Additional accessibility features shall be provided, if needed to accommodate the physical limitations of a resident or if specified in the resident’s individual service plan.” (Wis. Admin. Code § DHS 88.05)</p>	<p>Compliant</p>
<p>F: Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: 1: Identify a specific and individualized need. 2: Document the positive interventions and supports used</p>	<p>Person-Centered Planning – Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any modifications that are to be applied to the conditions defined in the settings rule. Person-centered plans that include one or more exceptions must incorporate the information identified in this section of the settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>prior to any modifications to the person-centered service plan.</p> <p>3: Document less intrusive methods of meeting the need that have been tried but did not work</p> <p>4: Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>5: Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>6: Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>7: Include the informed consent of the individual.</p> <p>8: Include an assurance that interventions and supports will cause no harm to the individual.</p>		

Community-Based Residential Facility (CBRF): Statute and Administrative Code

- <http://docs.legis.wisconsin.gov/statutes/statutes/50>
- http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/83.pdf

Definition: A place where five or more adults who are not related to the operator or administrator and who do not require care above intermediate-level nursing care reside and receive care, treatment, or services that are above the level of room and board but that include no more than three hours of nursing care per week per resident.

Crosswalk Table 4: Community-Based Residential Facility

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from Wis. Admin. Code § DHS 83.35)</p> <p>Rights: Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Wis. Stat. § 50.09)</p> <p>Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life, which enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)</p>	Compliant
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Physical Requirements: "Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident." Bedrooms must have "floor to ceiling walls with rigid construction swing-type doors... that open directly into a corridor, the resident's private living area or common living space." (Wis. Admin. Code § DHS 83.54)</p> <p>Bathrooms must have floor to ceiling walls and have locks that operate from both sides, except for bathrooms that are accessible from a bedroom occupied only by one person. (Summarized from Wis. Admin. Code § DHS 83.55)</p> <p>Rights: Residents have the right to "private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated." The right to private and unrestricted communications includes the right to receive and send sealed, unopened correspondence without delay or censorship; reasonable access to a telephone for private communications and the opportunity for private visits. (Summarized from Wis. Stat. § 50.09)</p> <p>Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." (Summarized from Wis. Stat. § 50.09)</p> <p>Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Summarized from Wis. Stat. § 50.09)</p> <p>"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Wis. Admin. Code § DHS 83.32)</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Summarized from Wis. Admin. Code § DHS 83.32)</p> <p>"For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place." (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Physical Requirements: "Bedrooms shall be designed and equipped to allow the highest level of independent functioning and shall be accessible to the resident." (Wis. Admin. Code § DHS 83.54)</p> <p>"Common dining and living space shall be internally accessible to all residents." (Wis. Admin. Code § DHS 83.52)</p> <p>Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>contacts, and vocational needs. (Summarized from Wis. Admin. Code § DHS 83.35)</p> <p>“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Summarized from Wis. Admin. Code § DHS 83.38)</p> <p>Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Summarized from Wis. Admin. Code § DHS 83.32)</p> <p>Residents shall not be required to perform services for the facility unless serving a therapeutic purpose in the resident’s care plan. Residents have the right to meet with, and participate in activities of social, religious, and community groups at the resident’s discretion, unless medically contraindicated in the resident’s medical record. (Summarized from Wis. Stat. § 50.09)</p>	
<p>441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>“Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate, any entrance fees, assessment fees, and security deposit.” The information must include an accurate description of the basic services provided, the rate charged for those services, and the method of payment and information about all additional services offered but not included in the basic services. The CBRF shall provide a written</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>statement of the fees charged for each of these services. (Summarized from Wis. Admin. Code § DHS 83.29)</p> <p>Rights: Residents have the right to “participate in the planning of care and treatment, be fully informed of care and treatment options and have the right to refuse any form of care or treatment unless the care or treatment has been ordered by a court.” (Wis. Admin. Code § DHS 83.32)</p> <p>Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” (Wis. Stat. § 50.09)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
§ 441.301(c)(4)(vi) PROVIDER OWNED OR CONTROLLED RESIDENTIAL SETTINGS		
<p>§ 441.301(c)(4)(vi)(A) 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 that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law.</p>	<p>“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” (Wis. Admin. Code § DHS 83.29)</p> <p>The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from Wis. Admin. Code § DHS 83.31)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi)(B) Each individual has privacy in their sleeping or living unit: 1: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Physical Requirements: “Bedrooms must be designed and equipped to allow the highest level of independent functioning and shall be fully accessible to the resident.” Bedrooms must have floor to ceiling walls with rigid construction swing-type doors that open directly into a corridor, the resident’s private living area or common living space. (Summarized from Wis. Admin. Code § DHS 83.54)</p>	<p>Silent: Regulations do not require that sleeping or living units are lockable. The standards will specify that only appropriate staff have keys to the doors.</p> <p>Service provider standards in HCBS waivers and the accompanying contracts and</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	Bathrooms must have floor to ceiling walls and have locks that operate from both sides, except for bathrooms that are accessible from a bedroom occupied only by one person. (Summarized from Wis. Admin. Code § DHS 83.55)	<p>other guidance will be revised to require the presence of locks on the doors to all living units. The locks must be operational unless contraindicated based on a person-centered plan and that only appropriate staff will have keys.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(B) 2: Individuals sharing units have a choice of roommates in that setting.</p>	<p>“Resident bedrooms shall accommodate no more than 2 residents per room.” (Wis. Admin. Code § DHS 83.54)</p> <p>Person-Centered Planning: Family Care Provider Network: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” (DHS-MCO Contract, Article VIII)</p>	<p>Silent: The rule is silent on the opportunity for choice of roommates, but personal preference for roommates, and ability to choose a different setting if the individual is not satisfied with any potential roommates in the setting, are the responsibility of the waiver agency in the person-centered planning process.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other program guidance (e.g., Waiver Manual) will be revised to ensure that the waiver agency is notified if no roommate who is acceptable to the participant is currently living in the setting so that the person-centered plan can be modified.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE.

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
		<ul style="list-style-type: none"> • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(B) 3: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>Physical Requirements: Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)</p> <p>If a resident does not provide the resident’s own bedroom furnishings, the CBRF shall provide appropriate furnishings to meet the needs of the resident. (Summarized from Wis. Admin. Code § DHS 83.43)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi)(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)</p> <p>Residents have the right to “private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated.” The right to private and unrestricted communications includes the right to receive and send sealed, unopened correspondence without delay or censorship; reasonable access to a telephone for private communications; and the opportunity for private visits. (Summarized from Wis. Stat. § 50.09)</p> <p>The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)</p>	<p>Partially Compliant Language does not specify access to food at any time.</p> <p>Remediation: Service provider standards in HCBS waivers and the accompanying contracts and other guidance will be revised to specify that the individual has access to food at any time.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definition manual.
<p>§ 441.301(c)(4)(vi)(D) Individuals are able to have visitors of their choosing at any time.</p>	<p>Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	contraindicated. The right to private and unrestricted communications includes the right to receive and send sealed, unopened correspondence without delay or censorship; reasonable access to a telephone for private communications; and the opportunity for private visits. (Summarized from Wis. Stat. § 50.09)	
<p>§ 441.301(c)(4)(vi)(E) The setting is physically accessible to the individual.</p>	<p>The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)</p> <p>“The minimum common dining and living space shall be 60 square feet per ambulatory or semi-ambulatory resident or other occupant, and 90 square feet per non-ambulatory resident or other occupant.” (Wis. Admin. Code § DHS 83.52)</p> <p>Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident’s wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)</p> <p>Toilet rooms and bathing areas shall be accessible and available to residents on each floor in facilities that service people at a specified level of need for assistance. (Summarized from Wis. Admin. Code § DHS 83.55)</p>	Compliant
<p>F: Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p> <p>1: Identify a specific and individualized need.</p> <p>2: Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</p> <p>3: Document less intrusive methods of meeting the need that have been tried but did not work</p>	<p>Person-Centered Planning: Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the settings rule. Person-centered plans that include one or more exceptions must incorporate the information identified in this section of the settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p> <p>“Assessment, individual service plan and evaluations. (1) ASSESSMENT. (a) Scope. The CBRF shall assess each resident’s needs, abilities, and physical and mental condition before admitting the person to the</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>4: Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>5: Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>6: Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>7: Include the informed consent of the individual.</p> <p>8: Include an assurance that interventions and supports will cause no harm to the individual.</p>	<p>CBRF, when there is a change in needs, abilities or condition, and at least annually. The assessment shall include all areas listed under par. (c). This requirement includes individuals receiving respite care in the CBRF. For emergency admissions the CBRF shall conduct the assessment within 5 days after admission.</p> <p>(b) Information gathering. The CBRF shall base the assessment on the current diagnostic, medical and social history obtained from the person's health care providers, case manager and other service providers. Other service providers may include a psychiatrist, psychologist, licensed therapist, counselor, occupational therapist, physical therapist, pharmacist or registered nurse. The administrator or designee shall hold a face-to-face interview with the person and the person's legal representative, if any, and family members, as appropriate, to determine what the person views as his or her needs, abilities, interests, and expectations.</p> <p>(c) Areas of assessment. The assessment, at a minimum, shall include all of the following areas applicable to the resident:</p> <ol style="list-style-type: none"> 1. Physical health, including identification of chronic, short-term and recurring illnesses, oral health, physical disabilities, mobility status and the need for any restorative or rehabilitative care. 2. Medications the resident takes and the resident's ability to control and self-administer medications. 3. Presence and intensity of pain. 4. Nursing procedures the resident needs and the number of hours per week of nursing care the resident needs. 5. Mental and emotional health, including the resident's self-concept, motivation and attitudes, symptoms of mental illness and participation in treatment and programming. 6. Behavior patterns that are or may be harmful to the resident or other persons, including destruction of property. 7. Risks, including, choking, falling, and elopement. 8. Capacity for self-care, including the need for any personal care services, adaptive equipment or training. 9. Capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known. 10. Social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs. <p>(d) Assessment documentation. The CBRF shall prepare a written report of the results of the</p>	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>assessment and shall retain the assessment in the resident's record.</p> <p>(2) TEMPORARY SERVICE PLAN. Upon admission, the CBRF shall prepare and implement a written temporary service plan to meet the immediate needs of the resident, including persons admitted for respite care, until the individual service plan under sub. (3) is developed and implemented.</p> <p>(3) COMPREHENSIVE INDIVIDUAL SERVICE PLAN. (a) Scope.</p> <p>Within 30 days after admission and based on the assessment under sub. (1), the CBRF shall develop a comprehensive individual service plan for each resident. The individual service plan shall include all of the following:</p> <ol style="list-style-type: none"> 1. Identify the resident's needs and desired outcomes. 2. Identify the program services, frequency and approaches under s. DHS 83.38 (1) the CBRF will provide. 3. Establish measurable goals with specific time limits for attainment. 4. Specify methods for delivering needed care and who is responsible for delivering the care. <p>(b) Development. The CBRF shall involve the resident and the resident's legal representative, as appropriate, in developing the individual service plan and the resident or the resident's legal representative shall sign the plan acknowledging their involvement in, understanding, of and agreement with the plan. If a resident has a medical prognosis of terminal illness, a hospice program or home health care agency, as identified in s. DHS 83.38 (2) shall, in cooperation with the CBRF, coordinate the development of the individual service plan and its approval under s. DHS 83.38 (2)(b). The resident's case manager, if any, and any health care providers, shall be invited to participate in the development of the service plan.</p> <p>(c) Implementation. The CBRF shall implement and follow the individual service plan as written." (Wis. Admin. Code § DHS 83.35)</p>	

Residential Care Apartment Complex (RCAC): Statute and Administrative Code

- <http://docs.legis.wisconsin.gov/statutes/statutes/50>
- http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/89

Definition: A place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen (including a stove), and individual bathroom, sleeping, and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal, and nursing services.

Crosswalk Table 5: Residential Care Apartment Complex

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” (Wis. Admin. Code § DHS 89.11)</p> <p>“‘Residential care apartment complex’ or ‘facility’ means a place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services.” (Wis. Admin. Code § DHS 89.13)</p> <p>Rights: The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from Wis. Admin. Code § DHS 89.34)</p>	Compliant

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of Wis. Admin. Code § DHS 89.24(2)(b). “These rights in no way limit or restrict any other rights of the individual under the U.S. Constitution, civil rights legislation or any other applicable statute, rule or regulation.” (Summarized from Wis. Admin. Code § DHS 89.34)	
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.	Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents) See Crosswalk Table 1 for references to contracts and waiver manuals.	Compliant
441.301(c)(4)(iii) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.	Physical Requirements: “‘Residential care apartment complex’ or ‘facility’ means a place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services.” (Wis. Admin. Code § DHS 89.13) Rights: A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36) Because RCACs consist of independent apartments, the rule is based on the assumption that the tenant would not be subject to restraints or other restrictions. Although Wis. Admin. Code ch. DHS 89 is silent on the use of isolation or restrain, but for all	Compliant Although the RCAC regulations are silent on the subject of restraint, other Wisconsin and DHS policies related to restraint apply to waiver participants who live in RCACs and constitute compliance with the regulation.

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>community placements, “the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place.” (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Physical Requirements: “‘Residential care apartment complex’ or ‘facility’ means a place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services.” (Wis. Admin. Code § DHS 89.13)</p> <p>Person-Centered Planning: Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from Wis. Admin. Code §§ DHS 89.26 and 89.27)</p> <p>Rights: The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from Wis. Admin. Code § DHS 89.34)</p>	<p>Compliant</p>

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	See Crosswalk Table 1 for references to contracts and waiver manuals.	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi) PROVIDER OWNED OR CONTROLLED RESIDENTIAL SETTINGS</p>		
<p>§ 441.301(c)(4)(vi)(A) 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 that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>“‘Contract’ means all written agreements between the tenant and the residential care apartment complex, including the service agreement, the risk agreement and any rental or sales contract.” (Wis. Admin. Code § DHS 89.13)</p> <p>A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (Summarized from Wis. Admin. Code § DHS 89.27)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi)(B) Each individual has privacy in their sleeping or living unit: 1: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Physical Requirements: Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” (Wis. Admin. Code § DHS 89.22)</p> <p>“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” (Wis. Admin. Code § DHS 89.13)</p>	<p>Silent: Regulations do not specify that only appropriate staff have keys to the doors.</p> <p>Service provider standards in HCBS waivers and the accompanying contracts and other guidance will be revised to require that only appropriate staff have keys.</p> <p>These standards will be incorporated in waiver manuals</p>

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
		<p>either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
<p>§ 441.301(c)(4)(vi)(B) 2: Individuals sharing units have a choice of roommates in that setting.</p>	<p>“Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant.” (Wis. Admin. Code § DHS 89.22)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi)(B) 3: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>A tenant has the right “to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants' choices or endanger the health or safety of the other tenants.” (Wis. Admin. Code § DHS 89.34)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi)(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” (Wis. Admin. Code § DHS 89.11)</p> <p>Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)</p> <p>“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and</p>	<p>Compliant</p>

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	paperwork; and entertaining visitors.” (Wis. Admin. Code § DHS 89.22)	
§ 441.301(c)(4)(vi)(D) Individuals are able to have visitors of their choosing at any time.	Rights: Tenants have the right “to receive visitors, meet with groups or participate in activities of the tenant's choice, including organizing and participating in tenant or family councils or groups provided that the health or safety of the other tenants is not endangered.” (Wis. Admin. Code § DHS 89.34)	Compliant
§ 441.301(c)(4)(vi)(E) The setting is physically accessible to the individual.	<p>“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” (Wis. Admin. Code § DHS 89.22)</p> <p>“All public and common use areas of a residential care apartment complex shall be accessible to and useable by tenants who use a wheelchair or other mobility aid consistent with the accessibility standards contained in ch. SPS 362. All areas for tenant use within the facility shall be accessible from indoors.” (Wis. Admin. Code § DHS 89.22)</p>	Compliant
<p>F: Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p> <p>1: Identify a specific and individualized need.</p> <p>2: Document the positive interventions and supports used prior to any modifications to the person centered service plan.</p> <p>3: Document less intrusive methods of meeting the need that have been tried but did not work</p> <p>4: Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>5: Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p>	<p>Person-Centered Planning: Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the settings rule. Person-centered plans that include one or more exceptions must incorporate the information identified in this section of the settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	Compliant

Federal Regulation (Title 41 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>6: Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>7: Include the informed consent of the individual.</p> <p>8: Include an assurance that interventions and supports will cause no harm to the individual.</p>		

Residential Settings: Child

Foster Care Homes: Statute and Administrative Code

- <http://docs.legis.wisconsin.gov/statutes/statutes/4893.pdf>
- http://docs.legis.wisconsin.gov/code/admin_code/DCF/021_099/56.pdf

Definition: “Foster care” means care and maintenance provided to a child in a foster home pursuant to a court order, voluntary placement agreement, or voluntary transition-to-independent-living agreement.

Crosswalk Table 6: Foster Care Homes

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Principles of Nurturing Care: The foster parent shall provide nurturing care that:</p> <ul style="list-style-type: none"> • “Socializes the child into family living and teaches social and community living skills, including accepting tasks and responsibilities.” • “Increases the child’s opportunities to develop decision-making skills and to make informed choices.” • “Gives the child room to grow and the maximum of personal and physical freedom appropriate to the child’s age and maturity.” • “Increases the child’s independence in performing tasks and activities by teaching skills that reduce dependence on caretakers.” • “Lets the child participate in community activities of the child’s choice, including sports and activities of school, community, social and religious groups, with this participation restricted only by reasonable curfew hours, cost considerations, a court order or for a reason agreed upon by the foster parent and the licensing and supervising agencies.” • “Increases the child’s opportunities to interact with diverse community populations.” • “Gives the child reasonable opportunity to voluntarily participate or not participate in religious practices, activities, and services of the child’s choice or the choice of the child’s parents. Any discrepancy between the child’s choice and the choice of the child’s parents shall be resolved by the child’s caseworker.” • “Teaches the child life skills in situations where the skills are used.” • “Provides daily schedules, routines, environments, and interactions similar to those of other children of the same age and in accordance with the child’s case plan, permanency plan, or treatment plan.” <p>(Summarized from Wis. Admin. Code § DCF 56.09)</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	See Crosswalk Table 1 for references to contracts and waiver manuals.	
<p>§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management. Options of services, providers, and settings, including non-disability-specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	Compliant
<p>§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Principles of Nurturing Care: The foster parent shall provide nurturing care that:</p> <ul style="list-style-type: none"> • “Ensures the child is provided a humane physical and psychological environment.” • “Is respectful of the child as a person.” • “Does not discriminate against the child because of the child's race or cultural identification, sex, age, sexual orientation, color, creed, ancestry, national origin or disability.” • “Promotes cultural understanding and sensitivity in the child and respects the cultural traditions of the child's family.” <p>(Summarized from Wis. Admin. Code § DCF 56.09)</p> <p>Physical Requirements: Each bedroom occupied by a foster child must have a door for privacy and cannot be used for passage by others to another room, nor can it only be accessible through another occupied sleeping room. No more than four children may regularly occupy one bedroom. The door to each bathroom shall have a lock that can be opened from the outside in an emergency. (Summarized from Wis. Admin. Code § DCF 56.07)</p> <p>“Physical Restraint.</p> <p>(a) A foster parent may not use any type of physical restraint on a foster child unless the foster child's behavior presents an imminent danger of harm to self or others and physical restraint is necessary to contain the risk and keep the foster child and others safe.</p> <p>(b) A foster parent shall attempt other feasible alternatives to de-escalate a child and situation before using physical restraint.</p> <p>(c) A foster parent may not use physical restraint as disciplinary action, for the convenience of the foster parent, or for therapeutic purposes. “</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>(d) If physical restraint is necessary, a foster parent may only use the physical restraint in the following manner:</p> <ol style="list-style-type: none"> 1. With the least amount of force necessary and in the least restrictive manner to manage the imminent danger of harm to self or others. 2. That lasts only for the duration of time that there is an imminent danger of harm to self or others. 3. That does not include any of the following: <ol style="list-style-type: none"> a. Any maneuver or technique that does not give adequate attention and care to protection of the child's head. b. Any maneuver that places pressure or weight on the child's chest, lungs, sternum, diaphragm, back, or abdomen causing chest compression. c. Any maneuver that places pressure, weight, or leverage on the neck or throat, on any artery, or on the back of the child's head or neck, or that otherwise obstructs or restricts the circulation of blood or obstructs an airway, such as straddling or sitting on the child's torso. d. Any type of choke hold. e. Any technique that uses pain inducement to obtain compliance or control, including punching, hitting, hyperextension of joints, or extended use of pressure points for pain compliance. f. Any technique that involves pushing on or into a child's mouth, nose, or eyes, or covering the child's face or body with anything, including soft objects, such as pillows, washcloths, blankets, and bedding.” <p>(Wis. Admin. Code § DCF 56.09)</p> <p>Child’s Treatment Plan: “The foster care provided for a child with a level of need of 3 or higher in a foster home with a certification of Level 3 to 5 shall do all of the following:</p> <ol style="list-style-type: none"> (a) Use a family-based and community-based approach to treatment for a child with physical, mental, medical, substance abuse, cognitive, intellectual, behavioral, developmental, or similar problems. (b) Make efforts to change the behavior or ameliorate the condition that, in whole or in part, resulted in the child's separation from his or her family. 	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>(c) Use specially selected and specifically trained foster parents who are the primary change agents in the treatment process and who have shared responsibility for implementing the child's treatment plan with other treatment team members." (Wis. Admin. Code § DCF 56.13)</p> <p>DCF 56.09 (1G) specifically prohibits the use of restrictive measures with children in foster care unless 'the foster child's behavior presents an imminent danger of harm to self or others and physical restraint is necessary to contain the risk and keep the foster child and others safe.' Under DCF 56.02 (2)(a), licensing agencies are prohibited from granting exceptions to the use of restrictive measures. 56.02 (2)(b) defines the Department exceptions panel, which reviews Restrictive Measures applications for children who reside in foster. The panel includes members from DCF and DHS to jointly review all requests for exceptions. The DCF exceptions panel adheres to the DHS Restrictive Measures Guidelines (below) and also prescribes the use of DHS Restrictive Measures application forms. Applications are jointly reviewed and approved/denied by the DCF Exceptions Panel.</p> <p>"For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place." (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
§ 441.301(c)(4)(iv) Optimizes, but does not regiment, individual initiative, autonomy, and	Principles of Nurturing Care: The foster parent shall provide nurturing care that:	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<ul style="list-style-type: none"> • “Socializes the child into family living and teaches social and community living skills, including accepting tasks and responsibilities.” • “Is respectful of the child as a person.” • “Increases the child's opportunities to develop decision-making skills and to make informed choices.” • “Gives the child room to grow and the maximum of personal and physical freedom appropriate to the child's age and maturity.” • “Increases the child's independence in performing tasks and activities by teaching skills that reduce dependence on caretakers.” • “Lets the child participate in community activities of the child's choice, including sports and activities of school, community, social and religious groups, with this participation restricted only by reasonable curfew hours, cost considerations, a court order or for a reason agreed upon by the foster parent and the licensing and supervising agencies.” • “Increases the child's opportunities to interact with diverse community populations.” • “Gives the child reasonable opportunity to voluntarily participate or not participate in religious practices, activities, and services of the child's choice or the choice of the child's parents. Any discrepancy between the child's choice and the choice of the child's parents shall be resolved by the child's caseworker.” • “Teaches the child life skills in situations where the skills are used.” • “Provides daily schedules, routines, environments, and interactions similar to those of other children of the same age and in accordance with the child's case plan, permanency plan, or treatment plan.” (Summarized from Wis. Admin. Code § DCF 56.09) <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management. Options of services, providers, and settings, including non-disability-specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(vi) PROVIDER OWNED OR CONTROLLED RESIDENTIAL SETTINGS</p>		

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>§ 441.301(c)(4)(vi)(A) 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 that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>Not applicable to minor children who have been court ordered to be placed in a licensed foster home by an established licensing agency.</p>	<p>Not applicable</p>
<p>§ 441.301(c)(4)(vi)(B) Each individual has privacy in their sleeping or living unit: 1: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Physical Requirements: Each bedroom occupied by a foster child shall have a door for privacy, a window that allows natural light to enter, and adequate ventilation. A sleeping room that someone must pass through to get to another part of the building may not be used for a foster child. A foster child may not regularly sleep in a room to which access can be gained only through another occupied sleeping room. (Summarized from Wis. Admin. Code § DCF 56.07)</p>	<p>Silent: Requirement is not fully applicable to children under 12 years who are court ordered to be placed into foster care.</p>
<p>§ 441.301(c)(4)(vi)(B) 2: Individuals sharing units have a choice of roommates in that setting.</p>	<p>Sleeping Arrangements:</p> <ul style="list-style-type: none"> • “Each foster child shall be provided with a separate bed, except 2 related children of the same sex over the age of one and under 12 years of age may share a double or larger bed.” • “Each infant child, birth to 12 months of age, shall sleep alone in a crib, bassinet, or playpen.” • “No foster child one year of age or older may regularly share a bedroom with an adult unless a physician determines that it is medically necessary and the licensing agency approves.” • “No foster child 6 years of age or older may regularly share a bedroom with another child of the opposite sex.” • “No more than four children may regularly occupy one bedroom.” (Summarized from Wis. Admin. Code § DCF 56.07) 	<p>Partially Compliant Requirement not fully applicable to children under age 12 years who are court ordered to be placed into foster care.</p>
<p>§ 441.301(c)(4)(vi)(B) 3: Individuals have the freedom to furnish and decorate their sleeping or living</p>	<p>Care of Foster Children: The foster home provides daily schedules, routines, environments, and interactions similar to those of other children of the</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
units within the lease or other agreement.	<p>same age and in accordance with the child's case plan, permanency plan, or treatment plan.</p> <p>Children must be allowed access to clothing and written and recorded materials and other items appropriate to the child's age and comprehension. A foster child's personal belongings may not be damaged or destroyed. (Summarized from Wis. Admin. Code § DCF 56.09)</p>	
§ 441.301(c)(4)(vi)(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	<p>Care of Foster Children: "The foster home provides daily schedules, routines, environments, and interactions similar to those of other children of the same age and in accordance with the child's case plan, permanency plan, or treatment plan." (Wis. Admin. Code § DCF 56.09)</p> <p>Principles of Nurturing Care: The foster parent shall provide nurturing care that:</p> <ul style="list-style-type: none"> • "Increases the child's opportunities to develop decision-making skills and to make informed choices." • "Gives the child room to grow and the maximum of personal and physical freedom appropriate to the child's age and maturity." • "Increases the child's independence in performing tasks and activities by teaching skills that reduce dependence on caretakers." • "Lets the child participate in community activities of the child's choice, including sports and activities of school, community, social and religious groups, with this participation restricted only by reasonable curfew hours, cost considerations, a court order or for a reason agreed upon by the foster parent and the licensing and supervising agencies." • "Increases the child's opportunities to interact with diverse community populations." (Summarized from Wis. Admin. Code § DCF 56.09) <p>Food:</p> <ul style="list-style-type: none"> • "The foster parent shall ensure that each foster child receives at least 3 meals a day. Meals a child receives as part of a meals program at school may be counted. A school-age foster child who does not participate in a school lunch program shall be provided a sack lunch or be provided lunch at the foster home or shall otherwise have lunch arranged for by or with the approval of the foster parent." 	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<ul style="list-style-type: none"> • “The foster parent shall ensure that each foster child is provided a quantity and variety of foods sufficient to meet the child’s nutritional needs and to maintain his or her health and growth.” • “No foster child may be forced to eat against his or her wishes except by order of and under the supervision of a physician.” (Summarized from Wis. Admin. Code § DCF 56.09) 	
§ 441.301(c)(4)(vi)(D) Individuals are able to have visitors of their choosing at any time.	“Permits a child to receive mail, to make and to receive a reasonable number of telephone calls and to visit with family, friends and others unless a visit is contraindicated by the child’s case plan, by a court order or by another controlling document.” (Wis. Admin. Code § DCF 56.09)	Compliant
§ 441.301(c)(4)(vi)(E) The setting is physically accessible to the individual.	<p>Physical Environment/Exterior Access: “If necessary for a child to access the foster home where the child is placed, at least one entrance to the foster home shall be level or ramped in accordance with ch. SPS 362 and in a manner that provides safe access for the child.”</p> <p>“Doorways and passageways to the common rooms of the foster home, a complete bathroom, and the child’s bedroom shall meet standards relating to accessibility in ch. SPS 362 if either of the following apply:</p> <ol style="list-style-type: none"> 1. The child uses a wheelchair. 2. The child has significant mobility limitations and is too big to be safely carried.” <p>If the home serves a child with mobility impairment, the child cannot: be required to sleep in the top level of a bunk bed or sleep in finished basement bedroom or second floor. At least one bathroom shall be constructed in conformity with Wis. Admin. Code § SPS 362. (Summarized from Wis. Admin. Code § DCF 56.07)</p>	Compliant
§ 441.301(c)(4)(vi)(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: 1: Identify a specific and individualized need. 2: Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	<p>“A licensing agency may impose additional safety conditions upon a licensee if the licensee cares for a child under one year of age or a child with mental or physical disabilities when the age, impaired judgment, or mobility of the child creates additional safety risks.” (Wis. Admin. Code § DCF 56.08)</p> <p>Assessment: “A placing agency shall assess each foster child before placement in a foster home or within 30 days after the child’s placement. A placing agency shall assess each foster parent within 30 days after the child’s placement in the foster home.” (Wis. Admin. Code § DCF 56.22)</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>3: Document less intrusive methods of meeting the need that have been tried but did not work</p> <p>4: Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>5: Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>6: Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>7: Include the informed consent of the individual.</p> <p>8: Include an assurance that interventions and supports will cause no harm to the individual.</p>	<p>Standardized Assessment Tool: “The standardized assessment tool shall include a list of items that may have a direct impact on service planning for the child and the child's foster parent. The list of items included in the standardized assessment tool shall assist with evaluation of all of the following:</p> <ol style="list-style-type: none"> 1. The child's functioning, including all of the following: <ol style="list-style-type: none"> a. The impact of trauma on the child. b. Life functioning, including physical, mental, and dental health; relationships with family members; and social skills. c. Functioning in a child care or school setting. d. Behavioral and emotional needs. e. Risk behaviors. f. Strengths. g. The effect of the culture of the child and the child's family on service provision.” (Wis. Admin. Code § DCF 56.22) <p>Reassessment Every Six Months: “A placing agency shall reassess each foster child and the child's foster parent within 6 months after the child's last assessment or reassessment. The placing agency, licensing agency, or foster parent may request a reassessment more frequently.” (Wis. Admin. Code § DCF 56.22)</p> <p>Child’s Treatment Plan: “The foster care provided for a child with a level of need of 3 or higher in a foster home with a certification of Level 3 to 5 shall do all of the following:</p> <ol style="list-style-type: none"> (a) Use a family-based and community-based approach to treatment for a child with physical, mental, medical, substance abuse, cognitive, intellectual, behavioral, developmental, or similar problems. (b) Make efforts to change the behavior or ameliorate the condition that, in whole or in part, resulted in the child's separation from his or her family. (c) Use specially selected and specifically trained foster parents who are the primary change agents in the treatment process and who have shared responsibility for implementing the child's treatment plan with other treatment team members.” (Wis. Admin. Code § DCF 56.13(8)) <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	

Nonresidential Settings: Adult

Note: The regulatory standards for adult day care do not prohibit adult day care centers from being located in an institution or on the grounds of, or adjacent to, a public institution, but includes special criteria to be taken into account when adult day care is collocated with institutional settings. The extent to which these criteria and other factors regarding specific settings comply with the rule will be evaluated as part of the heightened scrutiny process and are not assessed in the crosswalk tables.

Adult Day Care (ADC): DHS Standards (<https://www.dhs.wisconsin.gov/forms1/f6/f60947.doc>)

Definition: A day program that provides the elderly and other adults with services when their caregivers are at work or need relief. Only those adult day care programs seeking to serve one or more participants with waiver funding are required to be certified.

Crosswalk Table 7: Adult Day Care

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: “The adult day care setting is typical of or strongly resembles the locations where adults in that community customarily congregate for social, recreational or association activities (e.g., clubs, church halls, private homes, lodges, and restaurants). The building is consistent with the environment in terms of size, architectural style and type (urban vs. rural) and would be attractive and inviting to members of that community. The setting, programs and physical environment will enhance the dignity and individual respect of participants.” (Standards, Section IV.)</p> <p>Person-Centered Planning: Participants should be involved in the planning and implementation of indoor and outdoor activities, including access and involvement in the general community. (Summarized from ADC Standards, Section I.D.)</p> <p>Rights: A participant at an adult day care has the right to participate in the development of one’s service plan and to refuse to participate in any particular activity. (Summarized from ADC Standards, Section 1.A.(5))</p>	<p>Compliant</p> <p>While the SMA thinks that the standards for adult day care are compliant, the SMA will revise service provider standards in HCBS waivers and the accompanying contracts and other guidance to require that adult day care centers provide informational resources and referrals for anyone who is interested in employment or other activities in the community.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including	Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver).	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Rights: "A participant at an Adult Day Care has the rights to be treated with respect and dignity; to be free from physical or verbal abuse, to participate in the development of one's service plan; to refuse to participate in any particular activity, and to privacy and confidentiality." (Standards, Section 1.A.(5))</p> <p>"For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place." (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Physical Requirements: "The facility shall be designed in such a way that it is accessible and functional in meeting the identified needs of the adult population it serves. At least 50 square feet of usable floor space for each participant exclusive of passageways, bathrooms, lockers, office, storage areas, staff room, furnace rooms, and parts of rooms occupied by stationary equipment must be provided. Sufficient furniture and equipment for use by participants that provides comfort and safety, and is appropriate for an adult population with physical disabilities, visual and mobility limitations, and cognitive impairments." (Standards, Section III.D.)</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>Person-Centered Planning: Adult day care programs must have an assessment to get to know the individual and create an individualized service plan to meet the individual's needs and choices. Plans must be reviewed and updated every six months. (Summarized from ADC Standards, Section I.C.)</p> <p>Rights: A participant at an adult day care has the rights to participate in the development of one's service plan and to refuse to participate in any particular activity." (Summarized from ADC Standards, Section 1.A.(5))</p>	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Program Level: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p> <p>Setting Level: Adult day care program's must specify program services, support, and providers of each when conducting participant assessments, creating service plans, and developing individualized program services. (Summarized from ADC Standards, Section I.C. and Section I.D.)</p>	<p>Compliant</p>

Family Adult Day Care (Family ADC): Department Standards
[Family Adult Day Care Certification Standards](#)

Definition: Care provided for part of a day for small groups of no more than six adults in a home of a provider.

Crosswalk Table 8: Family Adult Day Care

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: The family adult day care is certified in a provider's home and reflects the community setting of the family home. "The conditions of the home shall be such that participants are cared for in a safe, sanitary and comfortable environment with adequate space and equipment to accommodate a program of activities and rest that meets the needs of the participants." (Standards, Section III.A.)</p> <p>Person-Centered Planning: "Participants should have opportunities to attend appropriate community activities." (Standards, Section I.C.)</p> <p>Rights: A participant at a family adult day care program has the rights to participate in the development of one's service plan and to refuse to participate in any particular activity. (Summarized from Family ADC Standards, Section 1.A.(2))</p>	<p>Compliant</p> <p>While the SMA thinks that the standards for Family Adult Day Care are compliant, the SMA will revised service provider standards in HCBS waivers and the accompanying contracts and other guidance to require that Family Adult Dare Care sites provide informational resources and referrals for anyone who is interested in employment or other activities in the community.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Compliant</p>
§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity	<p>Rights: A participant at an Adult Day Care has the rights to be treated with respect and dignity; to be</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
and respect, and freedom from coercion and restraint.	<p>free from physical or verbal abuse, to participate in the development of one's service plan; to refuse to participate in any particular activity, and to privacy and confidentiality. (Summarized from Family ADC Standards, Section 1.A.(2))</p> <p>"For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place." (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
§ 441.301(c)(4)(iv) 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.	<p>Physical Requirements: The Family Adult Day Care must have adequate space and equipment for activities and rest that meets the needs of the participants; table space and sufficient seating for each participant shall be provided. (Summarized from Family ADC Standards, Section III.A.)</p> <p>Person-Centered Planning: Family adult day care program's must have an assessment to get to know the individual and create an individualized service plan to meet the individual's needs and interests within 30 days of admission. Plans must be reviewed and updated annually or more often if changes in a participant warrant. (Summarized from Family ADC Standards, Section I.B.(3))</p> <p>Rights: A participant at a family adult day care has the rights to participate in the development of one's service plan and to refuse to participate in any particular activity." (Summarized from Family ADC Standards, Section 1.A.(2))</p>	Compliant
§ 441.301(c)(4)(v) Facilitates individual choice regarding services	<p>Person-Centered Planning: Program Level: Person-centered planning is supported by conflict-free care management and</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>and supports, and who provides them.</p>	<p>consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p> <p>Setting Level: A family adult day care program must specify program services and daily charges, including additional services and fees; such as transportation, baths, personal cares, etc. Family adult day care standards note that additional services may be arranged for or provided by the program including transportation, social services, personal cares, medication administration, nursing services, health monitoring, physical therapy, etc.” (Summarized from Family ADC Standards, Section I.A.(1))</p>	

Day Habilitation Service Settings: Waiver Service Standards

Definition: Day habilitation services are the provision of regularly scheduled activities in a nonresidential setting, separate from the member’s private residence or other residential living arrangement, such as assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills that enhance social development and develop skills in performing activities of daily living and full community citizenship.

Crosswalk Table 9: Day Habilitation

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: “Day habilitation may be furnished in a variety of settings in the community except for the member’s residence. Day habilitation services are not limited to fixed-site facilities but may take place in stores, restaurants, libraries, parks, recreational facilities, community centers or any other place in the community.” (Language is from DHS-MCO contract, Addendum IX; policy documents for other waivers contain similar language)</p> <p>Person-Centered Planning: “Day habilitation services are the provision of regularly scheduled activities in a nonresidential setting, separate from the member’s private residence or other residential living arrangement, such as assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and full community citizenship. Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice.” (DHS-MCO Contract, Addendum IX)</p> <p>“Day habilitation services focus on enabling the member to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the member’s person-centered services and support plan, such as physical, occupational, or speech therapy.” (DHS-MCO Contract, Addendum IX)</p> <p>“Day habilitation may not provide for the payment of services that are vocational in nature (i.e., for the primary purpose of producing goods or performing services).” (DHS-MCO contract, Addendum IX; policy documents for other waivers contain similar language)</p>	<p>Silent: The waiver standards do not address the fixed-site settings in which day habilitation services are provided.</p> <p>Remediation: The SMA will use the findings of the nonresidential provider self-assessment and site visits to develop standards for fixed-site day habilitation services.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and	Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Contracts with Providers: "The subcontractor agrees otherwise to preserve the full confidentiality of records, in accordance with Article XIII.A., Member Records, page 188, and protect from unauthorized disclosure all information, records, and data collected under the subcontract. Access to this information shall be limited to persons who, or agencies such as the Department and CMS which, require information in order to perform their duties related to this contract." (DHS-MCO contract, Article VIII)</p> <p>Rights: Waiver agencies "must have written policies regarding the enrollee rights specified in this section, including but not limited to:</p> <ol style="list-style-type: none"> 1. Being treated with respect and with due consideration for his/her dignity and privacy. 2. Receiving information on available treatment options and alternatives, presented in a manner appropriate to the enrollee's condition and ability to understand. 3. Participating in decisions regarding health and long-term care, including the right to refuse treatment and the right to request a second opinion. 4. Being free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation. 5. Being able to request and receive a copy of his/her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. § 164." (DHS-MCO contract, Article X) <p>"An exploration with the member of the member's preferences in regard to privacy, services, caregivers, and daily routine, including, if appropriate, an evaluation of the member's need and interest in acquiring skills to perform activities of daily living to increase his/her capacity to live independently in the most integrated setting." (DHS-MCO contract, Article V)</p> <p>COP/CIP/CLTS</p> <p>"1. You have a right to be treated with dignity and respect. This includes the right to free association to see whom you want, when you want unless a court order states otherwise.</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>2. You have a right to control your life and the services you get as much as you are able. You have the right to choose where you live, if you live alone or with others and with whom you will live. You have the right to be told that if you choose to live in certain settings, you may lose your eligibility for funding under the Medicaid Waiver.</p> <p>3. You have a right not to be hurt or threatened. You have the right to be free from abuse and neglect. You have a right to be free from restrictive measures and all unreasonable restraints. You have the right to refuse to take drugs you do not want to take unless ordered to do so by a court of law.</p> <p>4. You have the right to privacy. Your right to privacy includes having information that is said or written about you kept confidential, the right to receive and open your own mail, to make and receive private phone calls and to have visitors in your private areas including your bedroom and have the door closed.</p> <p>5. You have a right to see your file, have it corrected, and to get copies of reports in it.</p> <p>6. You have the right to direct your own services within the rules of the waiver in which you are enrolled. You have the right to have the self-directed service option explained to you and made available.</p> <p>7. You have the right to know what other rights apply to you. You may have rights because of where you live (e.g., in a group home (CBRF), because a court was involved in your services, or because of the nature of your disability. Waiver agency staff are responsible for telling you about these rights and for making sure you are adequately informed about them.”</p> <p>www.dhs.wisconsin.gov/waivermanual/appndx-m2.pdf</p> <p>Providers must acknowledge that they are subject to state and federal laws and regulations, and must understand and abide by applicable standards as a condition of participation in home and community-based services under the Medicaid program. (Summarized from Medicaid Provider agreement: www.dhs.wisconsin.gov/forms/f0/f00180.doc)</p> <p>IRIS</p> <p>Item 8: “Medicaid Confidentiality Policies and Procedures: To maintain the confidentiality of all records or other information relating to each participant’s status as a waiver participant and items or services the participant receives from the Provider.”</p> <p>(Medicaid Provider Agreement: www.dhs.wisconsin.gov/forms/f0/f00180b.doc)</p>	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>“For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place.” (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Person-Centered Planning: Waiver agency: Placement decisions and person-centered plans that are developed by the case management agency must address how the activities of the day will provide opportunities for interactions with the community, including friends and relatives, and access to activities. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p> <p>Service setting: “Day habilitation services provide assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and full community citizenship. Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice.</p> <p>“Day habilitation services focus on enabling the member to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the member’s person-centered services and support plan, such as physical, occupational, or speech therapy.</p>	<p>Silent: The waiver standards do not address the fixed-site settings in which day habilitation services are provided.</p> <p>Remediation: The SMA will use the findings of the nonresidential provider self-assessment and site visits to develop standards for fixed-site day habilitation services.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>“Day habilitation may not provide for the payment of services that are vocational in nature (i.e., for the primary purpose of producing goods or performing services). But an individual may also receive educational, supported employment and prevocational services.” (DHS-MCO contract, Addendum IX)</p>	
<p>441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Silent: The waiver standards do not address the fixed-site settings in which day habilitation services are provided.</p> <p>Remediation: The SMA will use the findings of the nonresidential provider self-assessment and site visits to develop standards for fixed-site day habilitation services.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.

Prevocational Services: Waiver Service Definition

Definition: Prevocational services are designed to create a path to integrated community-based employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

Crosswalk Table 10: Prevocational Services

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Physical Requirements: “Prevocational services are designed to create a path to integrated community based employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Prevocational services involve the provision of learning and work experiences where a member can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated, community settings. Services are expected to occur over a defined period of time as determined by the member and his/her care planning team in the ongoing member-centered planning process. Services are expected to specifically involve strategies that enhance a member's employability in integrated, community settings.”</p> <p>“Prevocational services may be delivered in a variety of locations in the community and are not limited to fixed-site facilities.</p> <p>“Prevocational services, regardless of how and where they are delivered, are expected to help people make reasonable and continued progress toward participation in at least part-time, integrated employment.”</p> <p>“Participation in prevocational services is not a pre-requisite for individual or small group supported employment services. Members who receive prevocational services may also receive educational, supported employment and/or day services. A member’s care plan may include two or more types of nonresidential services.” (Language is from DHS-MCO contract, Addendum IX; policy documents for other waivers contain similar language)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	<p>Silent: The waiver standards do not address the fixed-site settings in which prevocational services are provided.</p> <p>Remediation: The SMA will use the findings of the nonresidential provider self-assessment and site visits to develop standards for fixed-site prevocational service settings.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.
§ 441.301(c)(4)(ii) The setting is selected by the individual from	Person-Centered Planning: Person-centered planning is supported by conflict-free care management and	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	<p>consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>Contracts with Providers: "The subcontractor agrees otherwise to preserve the full confidentiality of records, in accordance with Article XIII.A., Member Records, page 188, and protect from unauthorized disclosure all information, records, and data collected under the subcontract. Access to this information shall be limited to persons who, or agencies such as the Department and CMS which, require information in order to perform their duties related to this contract." (DHS-MCO contract, Article VIII)</p> <p>Rights: "The MCO must have written policies regarding the enrollee rights specified in this section, including but not limited to:</p> <ol style="list-style-type: none"> 1. Being treated with respect and with due consideration for his/her dignity and privacy. 2. Receiving information on available treatment options and alternatives, presented in a manner appropriate to the enrollee's condition and ability to understand. 3. Participating in decisions regarding health and long-term care, including the right to refuse treatment and the right to request a second opinion. 4. Being free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation. 5. Being able to request and receive a copy of his/her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. § 164." (DHS-MCO contract, Article X) <p>"An exploration with the member of the member's preferences in regard to privacy, services, caregivers, and daily routine, including, if appropriate, an evaluation of the member's need and interest in acquiring skills to perform activities of daily living to increase his/her capacity to live independently in the most integrated setting." (DHS-MCO contract, Article V)</p> <p>COP/CIP/CLTS</p> <p>"1. You have a right to be treated with dignity and respect. This includes the right to free association to</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>see whom you want, when you want unless a court order states otherwise.</p> <p>2. You have a right to control your life and the services you get as much as you are able. You have the right to choose where you live, if you live alone or with others and with whom you will live. You have the right to be told that if you choose to live in certain settings, you may lose your eligibility for funding under the Medicaid Waiver.</p> <p>3. You have a right not to be hurt or threatened. You have the right to be free from abuse and neglect. You have a right to be free from restrictive measures and all unreasonable restraints. You have the right to refuse to take drugs you do not want to take unless ordered to do so by a court of law.</p> <p>4. You have the right to privacy. Your right to privacy includes having information that is said or written about you kept confidential, the right to receive and open your own mail, to make and receive private phone calls and to have visitors in your private areas including your bedroom and have the door closed.</p> <p>5. You have a right to see your file, have it corrected, and to get copies of reports in it.</p> <p>6. You have the right to direct you own services within the rules of the waiver in which you are enrolled. You have the right to have the self-directed service option explained to you and made available.</p> <p>7. You have the right to know what other rights apply to you. You may have rights because of where you live (e.g., in a group home (CBRF)), because a court was involved in your services, or because of the nature of your disability. Waiver agency staff are responsible for telling you about these rights and for making sure you are adequately informed about them” www.dhs.wisconsin.gov/waivermanual/appndx-m2.pdf)</p> <p>Providers must acknowledge that they are subject to state and federal laws and regulations, and must understand and abide by applicable standards as a condition of participation in home and community-based services under the Medicaid program. (Summarized from Medicaid Provider agreement: www.dhs.wisconsin.gov/forms/f0/f00180.doc)</p> <p>IRIS: Item 8: “Medicaid Confidentiality Policies and Procedures: To maintain the confidentiality of all records or other information relating to each participant’s status as a waiver participant and items or services the participant receives from the Provider.”</p>	

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>(Medicaid Provider Agreement: www.dhs.wisconsin.gov/forms/f0/f00180b.doc)</p> <p>“For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place.” (Wis. Admin. Code § DHS 94.10)</p> <p>DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>“Prevocational services are designed to create a path to integrated community based employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Prevocational services involve the provision of learning and work experiences where a member can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated, community settings. Services are expected to occur over a defined period of time as determined by the member and his/her care planning team in the ongoing member-centered planning process. Services are expected to specifically involve strategies that enhance a member's employability in integrated, community settings.” (DHS-MCO Contract, Addendum IX)</p> <p>Person-Centered Planning: Placement decisions and person-centered plan that are developed by the case management agency must address how the activities of the day will provide opportunities for interactions with the community, including friends and relatives, and access to activities. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p>	<p>Silent: The waiver standards do not address the fixed-site settings in which prevocational services are provided.</p> <p>Remediation: The SMA will use the findings of the nonresidential provider self-assessment and site visits to develop standards for fixed-site prevocational service settings.</p> <p>These standards will be incorporated in waiver manuals either directly or by reference. These policy documents include:</p> <ul style="list-style-type: none"> • DHS-MCO contract for Family Care, Partnership, and PACE. • The Medicaid Waivers Manual for CIP, COP, and CLTS waivers. • IRIS policies, work instructions, and service definitions.

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	See Crosswalk Table 1 for references to contracts and waiver manuals.	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>See Crosswalk Table 1 for references to contracts and waiver manuals.</p> <p>“Personal care provided to a member during the receipt of prevocational services may be included in the reimbursement paid to the prevocational services provider, or may be covered and reimbursed under another waiver service so long as there is no duplication of payment.” (DHS-MCO contract. Addendum IX)</p>	<p>Compliant</p>

Nonresidential Settings: Child

Children Day Services—Licensed Family Child Care: Statute and Administrative Code

https://docs.legis.wisconsin.gov/code/admin_code/DCF/201_252/250

Definition: A facility where a person provides care and supervision for less than 24 hours a day for at least four and not more than eight children who are not related to the provider.

Crosswalk Table 11: Licensed Family Child Care

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>“This chapter is promulgated under the authority of s. 48.67, Stats., to carry out licensing requirements under s. 48.65, Stats., for family child care centers. The purpose of the chapter is to protect the health, safety and welfare of children being cared for in family child care centers.” (Wis. Admin. Code § DCF 250.01)</p> <p>Physical Requirements: “Family child care centers located in a building that is not a one or two-story family dwelling shall conform to the applicable Wisconsin commercial building codes. A copy of a building inspection report evidencing compliance with the applicable building codes shall be submitted to the department prior to the department’s issuance of a license.” (Wis. Admin. Code § DCF 250.06)</p> <p>Program Planning and Scheduling: “A provider shall plan activities so that each child may be or do all of the following:</p> <ol style="list-style-type: none"> 1. Be successful and feel good about himself or herself. 2. Use and develop language. 3. Use large and small muscles. 4. Use materials and take part in activities that encourage creativity. 5. Learn new ideas and skills. 6. Participate in imaginative play. 7. Be exposed to a variety of cultures. 8. Develop literacy skills.” (Wis. Admin. Code § DCF 250.07) 	Compliant
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and,	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>“The center shall permit parents to visit and observe at any time during the center’s hours of operation, unless</p>	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
for residential settings, resources available for room and board.	access is prohibited or restricted by court order.” (Wis. Admin. Code § DCF 250.04)	
§ 441.301(c)(4)(iii) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>Confidentiality: “The licensee shall ensure that all of the following occur:</p> <ul style="list-style-type: none"> • Persons having access to children’s records do not discuss or disclose personal information regarding the children and facts learned about the children and their relatives. This subdivision does not apply to any of the following: <ul style="list-style-type: none"> ○ The parent or person authorized in writing by the parent to receive the information. ○ Any agency assisting in planning for the child when informed written parental consent has been given. ○ Agencies authorized under Wis. Stat. § 48.78. • A parent, upon request, has access to all records and reports maintained on his or her child.” (Wis. Admin. Code § DCF 250.05) <p>Reporting Child Abuse: “A licensee or provider who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in ss. 48.02 (1) and 48.981 (1), Stats., shall immediately contact the county department of social services or human services or local law enforcement agency in compliance with s. 48.981, Stats.” (Wis. Admin. Code § DCF 250.04)</p> <p>“The licensee shall document that each provider and substitute has received training at least every 2 years in all of the following:</p> <ol style="list-style-type: none"> 1. Child abuse and neglect laws. 2. How to identify children who have been abused or neglected. 3. The procedure for ensuring that all known or suspected cases of child abuse or neglect are immediately reported to the proper authorities.” (Wis. Admin. Code § DCF 250.04) <p>Child Guidance: “(a) Each family child care center shall provide positive guidance and redirection for the children and shall set clearly specified limits for the children. A provider shall help each child develop self-control, self-esteem and respect for the rights of others.</p> <p>(b) If a provider uses time-out periods to deal with unacceptable behavior, time-out periods may not exceed 5 minutes or be used for children under age 3. Time-out procedures shall be included in the center's written child guidance policy.</p> <p>(c) Actions that may be psychologically, emotionally or physically painful, discomforting, dangerous or</p> 	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>potentially injurious are prohibited. Examples of prohibited actions include all of the following:</p> <ol style="list-style-type: none"> 1. Spanking, hitting, pinching, shaking, slapping, twisting, throwing, or inflicting any other form of corporal punishment on the child. 2. Verbal abuse, threats or derogatory remarks about the child or the child's family. 3. Physical restraint, binding or tying the child to restrict the child's movement or enclosing the child in a confined space such as a closet, locked room, box or similar cubicle. 4. Withholding or forcing meals, snacks or naps. 5. Actions that are cruel, aversive, humiliating or frightening to the child. <p>(d) A child may not be punished for lapses in toilet training." (Wis. Admin. Code § DCF 250.07)</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Program Planning and Scheduling: "A provider shall plan activities so that each child may be or do all of the following:</p> <ol style="list-style-type: none"> 1. Be successful and feel good about himself or herself. 2. Use and develop language. 3. Use large and small muscles. 4. Use materials and take part in activities that encourage creativity. 5. Learn new ideas and skills. 6. Participate in imaginative play. 7. Be exposed to a variety of cultures. 8. Develop literacy skills." (Wis. Admin. Code § DCF 250.07) <p>"(b) A provider shall plan daily activities according to the age and developmental level of each child in care and shall include a flexible balance of all of the following:</p> <ol style="list-style-type: none"> 1. Daily indoor and outdoor activities when a child is in care for more than 3 hours except that outdoor activities are not required during inclement weather or when not advisable for health reasons. 2. Active and quiet play. 3. Protection from excess fatigue and over stimulation. 4. Individual and group activities. <p>(c) Television, including videotapes and DVDs, may be used only to supplement the daily plan for children. No child may be required to watch television." (Wis. Admin. Code § DCF 250.07)</p>	<p>Compliant</p>
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	(Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)	

DRAFT

Children Day Services—Licensed Group Child Care Center: Statutes and Administrative Code

https://docs.legis.wisconsin.gov/code/admin_code/dcf/201_252/251

Definition: A facility where a person for less than 24 hours a day provides care and supervision for nine or more children who are not related to the provider.

Crosswalk Table 12: Licensed Group Child Care Center

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
§ 441.301(c)(4) Home and community-based settings must have all of the following qualities and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan.		
§ 441.301(c)(4)(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Program Planning and Scheduling: “Each group child care center shall have a written program of activities which are suitable for the developmental level of each child and each group of children. The program shall provide each child with experiences which will promote all of the following: 1. Self-esteem and positive self-image. 2. Social interaction. 3. Self-expression and communication skills. 4. Creative expression. 5. Large and small muscle development. 6. Intellectual growth. 7. Literacy.” (Wis. Admin. Code § DCF 251.07)	Compliant
§ 441.301(c)(4)(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.	Person-Centered Planning: Person-centered planning is supported by conflict-free care management. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents) “(b) The center shall permit parents to visit and observe at any time during the center’s hours of operation, unless access is prohibited or restricted by court order. (c) The center shall make opportunities available at least twice each year for parent and staff communication regarding the child’s adjustment to the program, and the child’s growth and development. (d) If religious training is part of the center program, reference to the religious component shall be included in any publicity and in the education policy. This information shall be shared with parents. (e) The center shall provide a summary of this chapter to the parents of each child upon the child’s enrollment. (f) A copy of this chapter shall be posted or available in an area of the center where parents are likely to see it. (g) A copy of the child care policies of the center shall be made available to the parents in an area of the center accessible to parents. Personnel policies need not be included.” (Wis. Admin. Code § DCF 251.04)	Compliant

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
<p>§ 441.301(c)(4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Confidentiality: “(a) The licensee shall ensure that: (a) persons having access to children's records do not discuss or disclose personal information regarding the children and facts learned about the children and their relatives. This does not apply to:</p> <ol style="list-style-type: none"> 1. The parent or a person authorized in writing by the parent to receive the information. 2. Any agency assisting in planning for the child when informed written parental consent has been given. 3. Agencies authorized under Wis. Stat. § 48.78. <p>(b) A parent, upon request, has access to all records and reports maintained on his or her child.” (Wis. Admin. Code § DCF 251.04)</p> <p>Reporting Child Abuse: “(a) A licensee, employee or volunteer at a child care center who knows or has reasonable cause to suspect that a child has been abused or neglected, shall immediately contact the county department of social services or human services or a local law enforcement agency, as required by Wis. Stat. § 48.981.</p> <p>(b) The licensee, shall ensure that every employee and volunteer who comes in contact with the children at the child care center has received training every 2 years in all of the following:</p> <ol style="list-style-type: none"> 1. Child abuse and neglect law. 2. How to identify children who have been abused or neglected. 3. The procedure for ensuring that known or suspected cases of child abuse or neglect are immediately reported to the proper authorities. <p>(Wis. Admin. Code § DCF 251.04)</p> <p>Child Guidance: “(b) Each child care center shall a written policy which provides for positive guidance, redirection and the setting of clear-cut limits for the children. The policy shall be designed to help a child develop self-control, self-esteem and respect for the rights of others.</p> <p>(c) If a center uses time-out periods to deal with unacceptable behavior, time-out periods may not exceed 5 minutes and the procedure shall be included in the center's child guidance policy.</p> <p>(d) Use of time-out periods is prohibited for children under 3 years of age.</p> <p>(e) Actions that may be psychologically, emotionally or physically painful, discomfoting, dangerous or potentially injurious are prohibited. Examples of prohibited actions include all of the following:</p> <ol style="list-style-type: none"> 1. Spanking, hitting, pinching, shaking, slapping, twisting, throwing, or inflicting any other form of corporal punishment. 	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<ul style="list-style-type: none"> 2. Verbal abuse, threats or derogatory remarks about the child or the child's family. 3. Physical restraint, binding or tying the child to restrict the child's movement or enclosing the child in a confined space such as a closet, locked room, box or similar cubicle. 4. Withholding or forcing meals, snacks or naps. 5. Actions that are cruel, aversive, humiliating or frightening to the child. <p>(f) A child may not be punished for lapses in toilet training." (Wis. Admin. Code § DCF 251.07)</p>	
<p>§ 441.301(c)(4)(iv) 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.</p>	<p>Program Planning and Scheduling: "(a) Each group child care center shall have a written program of activities which are suitable for the developmental level of each child and each group of children. The program shall provide each child with experiences which will promote all of the following:</p> <ul style="list-style-type: none"> 1. Self-esteem and positive self-image. 2. Social interaction. 3. Self-expression and communication skills. 4. Creative expression. 5. Large and small muscle development. 6. Intellectual growth. 7. Literacy. <p>(b) The program schedule shall be planned to provide a flexible balance each day of:</p> <ul style="list-style-type: none"> 1. Active and quiet activities. 2. Individual and group activities. 3. Indoor and if the center is in operation more than 3 hours per day, outdoor activities. <p>(c) Television may be used only to supplement the daily plan for children. No child may be required to watch television. Other activities shall be available.</p> <p>(d) Routines such as toileting and eating and intervals between activities shall be planned to avoid keeping children waiting in lines or assembled in large groups.</p> <p>(e) The program shall provide all of the following:</p> <ul style="list-style-type: none"> 1. Reasonable regularity in eating, napping and other routines. 2. Daily periods when a variety of experiences are concurrently available for the children to select their own activities. 3. Protection from excess fatigue and over stimulation. 4. If a center is in operation for more than 3 hours per day, daily outdoor activities except during inclement weather or when not advisable for health reasons. <p>(f) Child care workers shall give children individual attention.</p> <p>(g) A center that is open in the early morning and late afternoon shall have a written plan for activities which meet the individual needs of the children during those time periods. The plan shall include:</p>	<p>Compliant</p>

Federal Regulation (Title 42 C.F.R.)	Areas of Compliance in State Standards	Assessment of Compliance/Need for Systemic Remediation
	<p>1. Provision of opportunities for the children to rest and eat.</p> <p>2. Use of materials and engagement in activities which for the most part do not duplicate materials or activities planned for the major part of the program.” (Wis. Admin. Code § DCF 251.07)</p> <p>A center shall provide equipment and supplies according to the following criteria:</p> <ol style="list-style-type: none"> 1. Child development shall be fostered through selection of a variety of equipment that will: <ol style="list-style-type: none"> a. Provide large muscle development. b. Provide construction activities and for development of manipulative skills. c. Encourage social interaction. d. Provide intellectual stimulation. e. Encourage creative expression. 2. A center shall provide sufficient indoor play equipment to allow each child a choice of at least 3 activities involving equipment when all children are using equipment. 3. A center shall provide sufficient outdoor play equipment to allow each child at least one activity involving equipment when all children are using equipment. (Wis. Admin. Code § DCF 251.07) 	
<p>§ 441.301(c)(4)(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Person-Centered Planning: Person-centered planning is supported by conflict-free care management. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)</p> <p>“A center serving school-age children shall have a planned program which provides a change from the routine of school through provision of:</p> <ol style="list-style-type: none"> 1. Rest and quiet areas. 2. Recreational activities, including outdoor and active play. 3. Freedom for children to select and plan their own activities.” (Wis. Admin. Code § DCF 251.095) 	<p>Compliant</p>

APPENDIX 4
Wisconsin HCBS Heightened Scrutiny Settings
Submitted to CMS 4-02-2021
(Public comment period completed 2-22-2021 to 3-24-2021)

Facility Name		Type	Facility ID	Street	City	Zip
Prong I: Settings in a publicly or privately operated facility that provides inpatient institutional treatment						
1	Aspirus Cedar Lane	CBRF	610071	135 South Gibson Street	Medford	54451
2	Autumn Village	RCAC	13043	915 Elm Avenue E	Menomonie	54751
3	Birch Way	CBRF	13858	607 E Bronson Rd	Seymour	54165
4	Bluff Haven Assisted Living	CBRF	12823	720 S Fremont St	Prairie Du Chien	53821
5	Bornemann North	CBRF	15319	1866 Brook St	Green Bay	54302
6	Bornemann South	CBRF	15320	1853 Mills St	Green Bay	54302
7	Chai Point Assisted Living	CBRF	310190	1400 N Prospect Ave	Milwaukee	53202
8	Christian Community Home Of Osceola	CBRF	13865	2650 65th Avenue	Osceola	54020
9	Covenant Oaks	CBRF	8572	6165 Mineral Point Rd	Madison	53705
10	Crest View Great Lakes	CBRF	9594	612 View St	New Lisbon	53950
11	Dove Healthcare - Osseo	RCAC	16457	51017 Ridge View Rd	Osseo	54758
12	Four Winds Lodge	CBRF	110368	309 Schweitzer Drive	Verona	53593
13	Francis House	CBRF	16783	3601 S Chicago Ave	Milwaukee	53172
14	Heritage Center	CBRF	111086	400 North Morris St	Stoughton	53589
15	Hillview Senior Living -- Mondovi	CBRF	14061	210 Memorial Drive	Mondovi	54755
16	Homme Residential Wittenberg	CBRF	410107	604 South Webb Street	Wittenberg	54499
17	Kitty Rhoades Memorial Memory Care Ctr	CBRF	16407	1446 N 4th Street	New Richmond	54017
18	Lakeview Care Partners At Waterford	CBRF	16391	1701 Sharp Rd	Waterford	53185
19	Legacy Senior Living Center Inc	RCAC	14245	1001 E 11th Street N	Ladysmith	54848
20	Luther Manor	CBRF	8721	831 Pine Beach Road	Marinette	54143
21	Manawa Assisted Living	CBRF	14496	401 East 4th St	Manawa	54949
22	Monarch Meadows (St. Joseph, Trinity Terrace)	CBRF	17393	107 E Beckert Rd	New London	54961
23	NewCare Residence	CBRF	15057	903 Main Ave	Crivitz	54114
24	North Terrace Assisted Living	RCAC	12685	1130 N Margaret St	Markesan	53946
25	Orchard View Terrace	CBRF	16719	1423 N 4th Street	New Richmond	54017
26	Oregon Healthcare and Rehabilitation	CBRF	18237	354 N Main St	Oregon	53575
27	Pine Valley Assisted Living Center	CBRF	16213	25951 Circle View Ln	Richland Center	53581
28	Point Manor	CBRF	17960	1800 Sherman Avenue	Stevens Point	54481
29	PRIDE TLC THERAPY And LIVING CAMPUS	CBRF	14504	7805 Birch St	Weston	54476
30	Renaissance Appleton	RCAC	13364	301 E Florida Ave	Appleton	54911
31	Ridge Crest Manor	CBRF	14630	110 Park Drive	Colfax	54730
32	Schmitt Woodland Hills Inc	CBRF	110230	1400 W Seminary St	Richland Center	53581
33	Seasons (The)	CBRF	15047	301 Cherry Ave W	Plum City	54761
34	Sheboygan Senior Community Inc	CBRF	15786	3505 Cty Rd Y	Sheboygan	53083
35	St Anne's Providence Court CBRF	CBRF	12345	3800 N 92nd St	Milwaukee	53222
36	St Anne's Mission Court CBRF	CBRF	15711	3800 N 92nd Street	Milwaukee	53222
37	St Camillus	CBRF	11293	10101 W Wisconsin Ave	Wauwatosa	53226
38	Timber Oaks	CBRF	310564	1390 8TH AVE	Union Grove	53182
39	Tivoli Terrace at St Anne's Salvatorian Campus	RCAC	10362	3800 N 92ND ST	Milwaukee	53222
40	Trinity Terrace	CBRF	410429	1835 DIVISION STREET		54961
41	Trinity Village Assisted Living	RCAC	16117	7300 W DEAN ROAD		53223

Facility Name		Type	Facility ID	Street	City	Zip
Prong II: Settings on the grounds of, or adjacent to, a public institution.						
1	Clearview Community Group Home	AFH 3-4	10513	750 North Main St	Green Bay	53039
2	Country Ridge	RCAC	10272	13197 Church Street	Pigeon Falls	54760
3	Hillview Terrace	RCAC	13997	3503 Park Ln	Lacrosse	54601
4	Northview Heights	CBRF	14709	199 CTY DF	Juneau	53039
5	Trailview Adult Family Home	AFH 3-4	11350	196 Trailview Court	Juneau	53039
6	Woodland Care CBRF	CBRF	14104	W4266 County Hwy X	Owen	54460