

Appendix A

Systemic Assessment- Crosswalk

441.301(c)(4) Home and community-based settings (HCBS) 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:

<b>New Jersey Department of Human Services                      Systemic Assessment/Remediation Grid                      January 6, 2022</b>	
<b>The systemic assessment grid describes the impact of the federal regulation on applicable State statutes, administrative rules, administrative and operational policies.</b>	
HCBS Setting	Statute/Policy/Rule or Standard
<b>Assisted Living Residence (ALR)</b>  <b>Comprehensive Personal Care Home (CPCH)</b>	<b>N.J.A.C. 8:36:</b> Standards for Licensure of Assisted Living (AL) Residences, Comprehensive Personal Care Homes and AL Programs
<b>Adult Family Care (AFC)</b>	<b>N.J.A.C. 8:43B:</b> Standards for Licensure of Adult Family Care
<b>Community Residences for Individuals with Developmental Disabilities</b>	<b>N.J.A.C. 10:44A:</b> Standards for Community Residences for Individuals with Developmental Disabilities
<b>Community Care Residences</b>	<b>N.J.A.C. 10:44B:</b> Manual of Standards for Community Care Residences
<b>Community Residences for Persons with Head Injuries</b>	<b>N.J.A.C. 10:44C:</b> Standards for Community Residences for Persons with Head Injuries

Federal Rule	HCBS Final Rule Setting Requirement			
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.			
Applicable Statute/Policy/Rule or Standard	(Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)	Explanation of Compliance Status Determination	Remediation Plan	Proposed Completion Date
NJAC 8:36	Partially Compliant	<a href="#">N.J.A.C 8:36-4.1(a)(1-39)</a> and <a href="#">N.J.A.C 8:36-5.8(b)</a> partially satisfies the HCBS requirements.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The individual’s setting must be integrated in and shall support his or her full access 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 persons not receiving Medicaid HCBS.”	October 31, 2022

NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual’s setting must be 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.”	October 31, 2022
NJAC 10:44A	Partially Compliant	<a href="#">N.J.A.C. 10:44A – 3.1(a, b, e, f)</a> requires adherence to the rights and support provided to understand options, make choices and exercise rights; 3.1(b)2 self-advocacy; 3.1(f) Support provided to understand options, make choices and exercise rights; 3.2 Rules governing residence; 3.3(c) - Notices of advocacy or self-advocacy conferences, seminars and meetings will be made available to residents.	<a href="#">N.J.A.C. 10:44A-3.2(a) and (b)</a> revisions will indicate that both licensee and house rules must be in accordance with the Division’s rights document, which includes the right to have visitors at any time unless otherwise determined in a person-centered planning process.	October 31, 2022

		<p><a href="#">Community Care Program Manual</a> –  1.2 Division Mission – meaningful community participation;  7.4.1.1.2.1.6 Person Centered Planning Tool, Community Experiences, 17.6.4.1.1.1, Development of a Licensing Setting; Case Management 6.3; Transportation 8.2.1; 17.21; 17.9.4.3.7 Site Search (requires review to ensure unnecessary concentration is occurring).</p> <p><a href="#">Residency Agreement</a> (Individuals are free to control their own schedules; Have right to receive visitors at time of their choosing)</p> <p><a href="#">Division Circular #4</a> (N.J.A.C. 10:40) 1.1(a)– Division Mission – meaningful community participation</p> <p><a href="#">N.J.S.A. 30:11B-5</a> (Residence availability throughout state without unnecessary concentration).</p> <p><a href="#">Participant Statement of Rights and Responsibilities</a> (exercise rights; make own decisions; live life as choose to free of judgement or interference; etc.)</p>	<p><a href="#">N.J.A.C.10:44A-5.7(c)1</a> will require accessible vehicles where needed.</p> <p>The State will propose edits to the CCP Manual that will require compliance with the HCBS settings final rule. The proposed language will include: “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>	
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<p>NJAC 10:44B</p>	<p>Partially Compliant</p>	<p><a href="#">N.J.A.C. 10:44B 1.5 (i), 3.1(e), 4.2(a), 6.5</a></p> <p><a href="#">Residency Agreement</a> to be implemented for Community Care Residences</p> <p><a href="#">Community Care Program Manual – Division Mission 1.2.1</a> – meaningful community participation</p> <p><a href="#">Community Care Program Manual 17.9.4.3.7 Site Search, 17.21.5.1.1.</a></p> <p><a href="#">Division Circular #4 N.J.A.C. 10:40 1.1 Division Mission</a> – meaningful community participation</p> <p><a href="#">N.J.S.A. 30:11B-5</a> (Residence availability throughout state without unnecessary concentration).</p> <p><a href="#">Participant Statement of Rights and Responsibilities</a> (exercise rights; make own decisions; live life as choose to free of judgement or interference; etc.)</p>	<p><a href="#">N.J.A.C. 10:44B-3.1(e)</a> to be revised: Individuals shall have the right to access the community for recreation, education, shopping, competitive integrated employment, and to participate in social, religious, advocacy, or other groups of their choice.</p> <p><a href="#">N.J.A.C. 10:44B</a> will be revised in several places in subchapter 3.1 to affirm that the exercise of rights, and house rules, may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive interventions except as documented through a person-centered planning process.</p> <p><a href="#">N.J.A.C. 10:44B-4.2(a)</a> revised: Each individual shall be afforded an opportunity to participate in an organized program of</p>	<p>October 31, 2022</p>
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			education, habilitation, rehabilitation, or competitive integrated employment in the community.	
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-1.3, 3.1(a), 3.4(b)11, 4.2(b)11viii, 5.8</a>	<a href="#">N.J.A.C. 10:44C</a> to be revised in several places in subchapters 3.2 and 3.4 to affirm that house rules and enumeration of rights may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive interventions except as documented through a person-centered planning process.	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Compliant	<a href="#">STC 2 &amp; 51(B) 6 &amp; 7</a>  STC 51(B)(6) requires that enrollees must be provided with an opportunity to make decisions about their day to day activities including visitors, when and what to eat, in their home and in the community.	As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: “The state assures compliance with the characteristics of HCBS settings as described in the 1915(c) and 1915(i)	June 30, 2022

		<p>STC 51(B)(7) requires that enrollees will be treated with respect, choose to wear their own clothing, have private space for their personal items, have privacy to visit with friends, family, be able to use a telephone with privacy, choose how and when to spend their free time, and have opportunities to participate in community activities of their choosing.</p>	<p>regulations in accordance with implementation/effective dates as published in the Federal Register.”</p>	
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).”</p>		

Federal Rule	HCBS Final Rule Setting Requirement			
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.			
Applicable Statute/Policy/Rule or Standard	Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)	Explanation of Compliance Status Determination	Remediation Plan	Proposed Completion Date
NJAC 8:36	Silent	NJAC 8:36 does not address the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, "The setting must be selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting, and the setting options must be identified and documented in the individual's person-centered service plan and based on his or her needs, preferences, and, for residential settings, resources available for room and board."	October 31, 2022



NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The setting must be selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting, and the setting options must be identified and documented in the individual’s person-centered service plan and based on his or her needs, preferences, and, for residential settings, resources available for room and board.”	October 31, 2022
NJAC 10:44A	Silent	<a href="#">Community Care Program Manual</a> 7.4.1 Person Centered Planning Tool; 7.4.2 Planning Meetings  <a href="#">Residency Agreement</a>  <a href="#">N.J.A.C. 10:44A</a> – 3.1(a, b, e, f) requires adherence to the rights and support provided to understand options, make choices and exercise rights  <a href="#">Participant Statement of Rights and Responsibilities</a> (Exercise rights; make	The State will propose edits to the CCP Manual that will require compliance with the HCBS settings final rule. The proposed language will include: “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	January 31, 2022

		own decisions; live life as choose to free of judgement or interference; etc.)	service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.”	
NJAC 10:44B	Silent	<a href="#">Participant Statement of Rights and Responsibilities</a> (Exercise rights; make own decisions; live life as choose to free of judgement or interference; etc.)	<a href="#">Residency Agreement</a> To be implemented in Community Care Residences	January 31, 2022
NJAC 10:44C	Silent		MCO Contract, Article 9.6.3 “CARE PLANNING: NEEDS ASSESSMENT AND OPTIONS COUNSELING” and 9.6.4 “CARE PLANNING: PLAN OF CARE DEVELOPMENT AND SERVICE COORDINATION” required person centered care planning, options counseling and member choice in service delivery. Also required are service provision in the least restrictive setting.	January 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Silent		As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: “The state assures compliance with	June 30, 2022

			the characteristics of HCBS settings as described in the 1915(c) and 1915(i) regulations in accordance with implementation/effective dates as published in the Federal Register.”	
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).”</p> <p>Additionally, Article 9.6.3 “CARE PLANNING: NEEDS ASSESSMENT AND OPTIONS COUNSELING” and 9.6.4 “CARE PLANNING: PLAN OF CARE DEVELOPMENT AND SERVICE</p>		

		COORDINATION” required person centered care planning, options counseling and member choice in service delivery. Also required are service provision in the least restrictive setting.		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(iii)</b>	<b>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">N.J.A.C 8:36-4.1(a)(1:42)</a> and <a href="#">N.J.A.C 8:36-5.8(b)</a> partially satisfies the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The setting must ensure the individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.”	October 31, 2022
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual’s setting must ensure an individual’s rights of privacy, dignity and	October 31, 2022

			respect, and freedom from coercion and restraint.”	
NJAC 10:44A	Partially Compliant	<p><a href="#">N.J.A.C. 10:44A-2.2(a), 2.2(b)12, 3.1, 3.2, 5.5, 3.1(a, b, e, f)</a></p> <p><a href="#">Residency Agreement</a>– Shall have access to food at any time; Individuals are free to control their own schedules; Have right to receive visitors at time of their choosing).</p> <p>Residency agreement states My service provider agrees to adhere to the standards set forth in 42 CFR 441.301 (c) (1)-(5) – Contents of Request for a Waiver. Complete text found at <a href="https://www.ecfr.gov/cgi-bin/text-idx?node=se42.4.441_1301&amp;rgn=div8">https://www.ecfr.gov/cgi-bin/text-idx?node=se42.4.441_1301&amp;rgn=div8</a></p> <p>This includes reference to access to food at any time</p> <p><a href="#">Community Care Program Manual 1.2.1; 7.4.2.2</a></p> <p><a href="#">Division Circular #53, N.J.A.C. 10:41</a></p> <p><a href="#">Provider Agreement</a>– licensee must abide by policy of DDD prohibiting physical and verbal abuse, neglect, exploitation, corporal punishment, physical discipline and use of</p>	<p><a href="#">N.J.A.C. 10:44A-3.2(a) and (b)</a> revisions will indicate that both licensee and house rules must be in accordance with the Division’s rights document, which includes the right to have visitors at any time unless otherwise determined in a person-centered planning process.</p> <p><a href="#">N.J.A.C. 10:44A 5.5(c)</a> to be revised: Food shall be readily accessible to individuals receiving services unless limitations have been approved through a person-centered planning process documented in the individual’s record.</p> <p>The State will propose edits to the CCP Manual that will require compliance with the HCBS settings final rule. The proposed language will include: “Ensures an individual's rights of privacy, dignity and respect,</p>	October 31, 2022

		<p>unapproved aversive stimuli or mechanical restraint or isolation.</p> <p><a href="#">Participant Statement of Rights and Responsibilities</a> (Exercise rights; make own decisions; live life as choose to free of judgement or interference; etc)</p>	<p>and freedom from coercion and restraint.”</p>	
NJAC 10:44B	Partially Compliant	<a href="#">N.J.A.C. 10:44B 3.1; N.J.A.C. 10:44C-3.1(b, c), 4.1(d)4</a>	<a href="#">N.J.A.C. 1044B-3.1(b)</a> 1 to be revised to specify the individuals’ right to be free from coercion.	October 31, 2022
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-3.5(k)</a> <a href="#">N.J.A.C. 10:44C-3.1(a), 3.4(b)11</a>	<p>N.J.A.C. <a href="#">10:44C</a> to be revised at 3.4(b)2 to include the right to be free from coercion.</p> <p><a href="#">N.J.A.C. 10:44C</a> to be revised in several places in subchapters 3.2 and 3.4 to affirm that house rules and enumeration of rights may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive</p>	October 31, 2022

			interventions except as documented through a person-centered planning process.	
NJ Comp Waiver – Special Terms and Conditions	Compliant	<a href="#">STC 2 &amp; STC 51(B)(7)</a> <p>The STCs requires enrollees will be treated with respect, choose to wear their own clothing, have private space for their personal items, have privacy to visit with friends, family, be able to use a telephone with privacy, choose how and when to spend their free time, and have opportunities to participate in community activities of their choosing.</p>		
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services		

		regulations as per 42CFR 441.301(c)(4).”		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(iv)</b>	<b>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.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">N.J.A.C. 8:36-5.16</a> partially satisfies the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include “The setting must optimize, but 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.”	October 31, 2022
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual’s setting must	October 31, 2022



			optimize, but 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.”	
NJAC 10:44A	Compliant	<p><a href="#">N.J.A.C. 10:44A-3.1, 3.2</a>; 3.1(a, b, e, f)</p> <p><a href="#">Community Care Program Manual 1.2.1; 7.1; 7.4.2.2</a></p> <p><a href="#">Participant Statement of Rights and Responsibilities</a>– Right to identify and invite who individual wants to participate in their service plan meeting; Responsibility to participate in service plan process.</p>		
NJAC 10:44B	Compliant	<p><a href="#">N.J.A.C. 10:44B 3.1(e), 3.3, 3.4</a> - Individuals shall have the right to access the community for recreation, education, shopping, competitive integrated employment, and to participate in social, religious, advocacy, or other groups of their choice. Licensee shall provide or make arrangements to facilitate the individuals participation is all such community involvement.</p>		

		<p><a href="#">Community Care Program Manual – Division Mission 1.2.1</a> – meaningful community participation</p> <p><a href="#">Division Circular #4</a> <a href="#">N.J.A.C. 10:40 1.1</a></p> <p><a href="#">Participant Statement of Rights and Responsibilities</a> (Exercise Rights; make own decisions; live life as choose to free of judgement or interference; etc.)</p>		
NJAC 10:44C	Compliant	<a href="#">N.J.A.C. 10:44C-1.3, 2.2(a), 3.4, 4.2(b)11ix</a>		
NJ Comp Waiver – Special Terms and Conditions	Compliant	<p><a href="#">STC 2 &amp; STC 51(B)(7)</a></p> <p>The STCs requires enrollees will be treated with respect, choose to wear their own clothing, have private space for their personal items, have privacy to visit with friends, family, be able to use a telephone with privacy, choose how and when to spend their free time, and have opportunities to participate in community activities of their choosing.</p>		
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet		

		compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).”		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(v)</b>	<b>Facilitates individual choice regarding services and supports, and who provides them.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Silent	N.J.A.C 8:36 does not address the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The person-centered planning process must offer informed choices to the individual regarding the services and	October 31, 2022

			supports he or she receives and from whom.”	
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The person-centered planning process must offer informed choices to the individual regarding the services and supports he or she receives and from whom.”	October 31, 2022
NJAC 10:44A	Compliant	<p><a href="#">N.J.A.C. 10:44A-2.10(a), 3.1, 3.2;</a>  3.1(a, b, e, f), 5.5(e, g, i), 5.6(a),  6.13(g)</p> <p><a href="#">Community Care Program Manual 1.2.1; 7.1; 7.4.2.2</a></p> <p><a href="#">Participant Statement of Rights and Responsibilities</a>– Right to identify and invite who individual wants to participate in their service plan meeting; Responsibility to participate in service plan process.</p>		
NJAC 10:44B	Compliant	<p><a href="#">N.J.A.C. 10:44A-3.1, 3.3(a), 3.4(e, g), 3.5(a) 4.2(a), (a)2, 5.2(b), 6.4(o);</a></p> <p><a href="#">Participant Statement of Rights and Responsibilities</a></p> <p><a href="#">Community Care Program Manual 1.2.1; 7.1; 7.4.2.2</a></p>		

NJAC 10:44C	Compliant	<a href="#">N.J.A.C. 10:44C-2.10(a), 3.1, 3.2, 3.4, 3.5, 3.6, 5.6(b), 6.13(h)</a>		
NJ Comp Waiver – Special Terms and Conditions	Compliant	<p><a href="#">STC 51 (H) 1 &amp; 7</a></p> <p>51(H)(1) requires that participants have the choice of participating providers within the plan network as well as access to non-participating providers when the appropriate provider type is not in the MCO network.</p> <p>51(H)(7) requires participation by the enrollee when developing the plan of care.</p>		
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services</p>		

		regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(A)</b>	<b>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Compliant	<a href="#">N.J.A.C. 8:36-4.1(a)10, 19, 36 and 37</a> and (b) and (c) satisfies this HCBS requirement.		
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The unit or dwelling must be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the	October 31, 2022

			individual, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under State, county and municipal law.”	
NJAC 10:44A	Partially Compliant	<p><a href="#">N.J.A.C. 10:44A-3.1, 3.2</a> – Rights shall not be abridged without due process; advanced notice of discharge</p> <p><a href="#">Residency Agreement</a></p> <p><a href="#">N.J.A.C. 10:48, 1.6</a></p> <p><a href="#">Division Circular #37 “Appeals” Community Care Program Manual, 11.1</a></p>	N.J.A.C. <a href="#">10:44A</a> to be amended at 4.1(c) to incorporate the HCBS final rule regarding the requirement for a written lease agreement or residency agreement.	October 31, 2022
NJAC 10:44B	Silent	<a href="#">Service Provider Agreement</a>	<p><a href="#">N.J.A.C. 10:44B-2.2(g)</a>, (g)1 to be added to require applicable lease/residency agreement.</p> <p><a href="#">Service Provider Agreement</a> to be amended to reference need for lease/residency agreement</p>	October 31, 2022

			<a href="#">Residency agreement</a> for the setting to be amended	
NJAC 10:44C	Silent		<a href="#">N.J.A.C. 10:44C</a> will be amended at 4.1(e) to incorporate the HCBS final rule regarding the requirement for a written lease agreement or residency agreement.	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Silent		STC – 2 As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: “The state assures compliance with the characteristics of HCBS settings as described in the 1915(c) and 1915(i) regulations in accordance with implementation/effective dates as published in the Federal Register.”	June 30, 2022
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the		



		MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(B)</b>	<b>Each individual has privacy in their sleeping or living unit:</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">N.J.A.C. 8:36-1.3 (specifically, definition of homelike environment)</a> <a href="#">N.J.A.C. 8:36-16.8(c)</a> & N.J.A.C. 8:36-4.1(a)(5)partially satisfies the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The individual must have privacy in his or her sleeping or living unit.”	October 31, 2022
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual must have privacy in his or her sleeping or living unit.” The setting will be	October 31, 2022

			monitored to ensure continued compliance with the setting criteria.	
NJAC 10:44A	Partially Compliant	<p><a href="#">N.J.A.C. 10:44A –6.14(d)</a> – Bathroom doors shall be equipped with standard hardware that provides a privacy lock which can be readily opened from the outside in case of emergency.</p> <p><a href="#">Residency Agreement</a>– Individuals shall have privacy in their living quarters.</p>	N.J.A.C. 10:44A will be amended at 6.13(h) and 6.14(d) to incorporate the HCBS final rule requiring bedroom and bathroom doors having a doorknob that provides a privacy lock with only appropriate staff having access to the key, as needed.	October 31, 2022
NJAC 10:44B	Silent		<a href="#">N.J.A.C. 10:44B</a> to be revised at 6.1(q) and 6.4(g) and (g)1 to require privacy lock on bathroom and bedroom doors, with the key available to only the licensee or alternate.	October 31, 2022
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-3.4; 6.14(d)</a>	<a href="#">N.J.A.C. 10:44C</a> will be amended at 6.13(h) and 6.14(d) to incorporate the HCBS final rule requiring bedroom and bathroom doors having a doorknob that provides a privacy lock with only appropriate staff having access to the key, as needed.	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Compliant	<a href="#">STC 51(B) 1 &amp; 3</a>		

		<p>STC 51(B)(1) requires private or semi-private bedrooms including decisions associated with sharing a bedroom.</p> <p>STC 51(B)(3) requires private or semiprivate bathrooms that include provisions for privacy.</p>		
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).</p>		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(B)(1)</b>	<b>Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</b>			

Applicable Statute/Policy/Rule or Standard	Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)	Explanation of Compliance Status Determination	Remediation Plan	Proposed Completion Date
NJAC 8:36	Compliant	<a href="#">N.J.A.C. 8:36-16.8</a> satisfies the HCBS requirement.		
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual units must have entrance doors lockable by the individual, with only appropriate staff having keys to doors.” The setting will be monitored to ensure continued compliance with the setting criteria.	October 31, 2022
NJAC 10:44A	Partially Compliant	<p><a href="#">N.J.A.C. 10:44A –6.14(d)</a> – Bathroom doors shall be equipped with standard hardware that provides a privacy lock which can be readily opened from the outside in case of emergency.</p> <p><a href="#">Residency Agreement</a>– Individuals shall have privacy in their living quarters.</p>	<a href="#">N.J.A.C. 10:44A</a> will be amended at 6.13(h) and 6.14(d) to incorporate the HCBS final rule requiring bedroom and bathroom doors having a doorknob that provides a privacy lock with only appropriate staff having access to the key, as needed.	October 31, 2022

NJAC 10:44B	Silent		<a href="#">N.J.A.C. 10:44B</a> to be revised at 6.1(q) and 6.4(g) and (g)1 to require privacy lock on bathroom and bedroom doors, with the key available to only the licensee or alternate.	October 31, 2022
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C –6.14(d)</a> – Bathroom doors shall be equipped with standard hardware that provides a privacy lock which can be readily opened from the outside in case of emergency.	<a href="#">N.J.A.C. 10:44C</a> will be amended at 6.13(i) and 6.14(d) to incorporate the HCBS final rule requiring bedroom and bathroom doors having a doorknob that provides a privacy lock with only appropriate staff having access to the key, as needed.	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Silent		STC 2 - As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: “The state assures compliance with the characteristics of HCBS settings as described in the 1915(c) and 1915(i) regulations in accordance with implementation/effective dates as published in the Federal Register.”	June 30, 2022

MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(B)(2)</b>	<b>Individuals sharing units have a choice of roommates in that setting.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">NJAC 8:36-4.1(a)(26)</a> partially satisfies the requirement.	The State will propose new regulations under Title 10	October 31, 2022

			of the New Jersey Administrative Code that will include, "Individuals sharing units must have a choice of roommates in that setting."	
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, "Individuals sharing units must have a choice of roommates in that setting."	October 31, 2022
NJAC 10:44A	Partially Compliant	<a href="#">Residency Agreement</a> Individuals sharing bedrooms shall have choice of roommate.	<a href="#">N.J.A.C. 10:44A-4.1(a)8</a> revised to add: "A statement affording all individuals the right to have choice in the selection of their roommate.	October 31, 2022
NJAC 10:44B	Non-Compliant		Amend <a href="#">CCP manual</a> to outline choice of roommate is required  <a href="#">N.J.A.C. 10:44B-6.4(i)</a> to be added: Individuals shall not share a bedroom unless there is documentation in each of the individuals' service plans of a person-	October 31, 2022

			<p>centered planning process determination that they requested and/or chose their roommate.</p> <p>Residency agreements to be amended for the setting</p>	
NJAC 10:44C	Non-Compliant		<p><a href="#">N.J.A.C. 10:44C-4.1(a)</a>8 to be added: “A statement affording all individuals the right to have choice in the selection of their roommate.</p>	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Compliant	<p><a href="#">STC 51(B)(1)</a></p> <p>The STCs require that an individual be provided with a private or semi-private bedrooms including decisions associated with sharing a bedroom.</p>		
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the</p>		



		MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(B)(3)</b>	<b>Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Silent	The regulations do not address the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “Individuals shall have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.”	October 31, 2022

NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual must have the freedom to furnish and decorate his or her sleeping or living units within the lease or other agreement.”	October 31, 2022
NJAC 10:44A	Compliant	<a href="#">N.J.A.C. 10:44A - 6.13(f)</a>  <a href="#">Residency Agreement</a> – Freedom to furnish and decorate their sleeping or living quarters.  <a href="#">Participant Statement of Rights and Responsibilities</a> – Exercise rights as a citizen; Ability to make own decisions		
NJAC 10:44B	Compliant	<a href="#">N.J.A.C. 10:44B 1.3, 3.1, 6.4(o)</a>		
NJAC 10:44C	Compliant	<a href="#">N.J.A.C. 10:44C-6.13(g) and (h)</a>		
NJ Comp Waiver – Special Terms and Conditions	Compliant	<a href="#">STC 51(B)(7)</a>  The STCs require enrollees to be treated with respect and have private space for their personal items.		
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services		

		regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(C)</b>	<b>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">N.J.A.C. 8:36-4.1(a)3, 5, 6, 30, 31, 33 and 39 (specifically, 4.1(a)6, the right to privacy, as the term is defined at N.J.A.C. 8:36-1.3)</a> and <a href="#">N.J.A.C. 8:36-5.8(b)</a> partially satisfies this HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The individual must have the freedom and support to control his or her own schedules and	October 31, 2022

			activities and have access to food at any time.”	
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The individual must have the freedom and support to control his or her own schedules and activities and have access to food at any time.”	October 31, 2022
NJAC 10:44A	Partially Compliant	<p><a href="#">Residency Agreement</a> (Individuals are free to control their own schedules, Shall have access to food at any time)</p> <p><a href="#">N.J.A.C. 10:44A-1.3, 3.1, 3.2, 5.5</a></p> <p>Residency agreement states My service provider agrees to adhere to the standards set forth in 42 CFR 441.301 (c) (1)-(5) – Contents of Request for a Waiver. Complete text found at <a href="https://www.ecfr.gov/cgi-bin/text-idx?node=se42.4.441_1301&amp;rgn=div8">https://www.ecfr.gov/cgi-bin/text-idx?node=se42.4.441_1301&amp;rgn=div8</a></p> <p>This includes reference to access to food at any time</p>	<a href="#">N.J.A.C. 10:44A 5.5(c)</a> to be revised: Food shall be readily accessible to individuals receiving services unless limitations have been approved through a person-centered planning process documented in the individual’s record.	October 31, 2022
NJAC 10:44B	Partially Compliant	<p><a href="#">N.J.A.C. 10:44B 3.1 (e)</a></p> <p><a href="#">Participant Statement of Rights and Responsibilities</a> (Exercise Rights;</p>	<a href="#">N.J.A.C. 10:44B</a> will be revised in several places in subchapter 3.1 to affirm that the exercise of rights,	October 31, 2022

		make own decisions; live life as choose to free of judgement or interference; etc)	and house rules, may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive interventions except as documented through a person-centered planning process.	
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-1.3, 3.1, 3.2</a> <a href="#">N.J.A.C. 10:44C-3.1(a), 3.4(b)11</a>	<a href="#">N.J.A.C. 10:44C</a> to be revised in several places in subchapters 3.2 and 3.4 to affirm that house rules and enumeration of rights may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive interventions except as documented through a person-centered planning process. <a href="#">N.J.A.C. 10:44C 5.5(c)</a> to be revised: Food shall be readily accessible to persons served unless limitations have been	October 31, 2022

			approved through a person-centered planning process documented in the person's record.	
NJ Comp Waiver – Special Terms and Conditions	Compliant	<p><a href="#">STC 2 &amp; STC 51 (B) 5, 6, &amp; 7</a></p> <p>STC 51(B)(5) requires that enrollees must have access to a food storage or food pantry area at all times.</p> <p>STC 51(B)(6) requires that enrollees must be provided with an opportunity to make decisions about their day to day activities including visitors, when and what to eat, in their home and in the community.</p> <p>STC (B)(7) requires that enrollees will be treated with respect, choose to wear their own clothing, have private space for their personal items, have privacy to visit with friends, family, be able to use a telephone with privacy, choose how and when to spend their free time, and have opportunities to participate in community activities of their choosing.</p>		
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and</p>		

		Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(D)</b>	<b>Individuals are able to have visitors of their choosing at any time.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">N.J.A.C. 8:36-4.1(a)3, 4, 5, 6, 26, 30, 31, 33 and 39 (specifically, 4.1(a)6, the right to privacy, as the term is defined at N.J.A.C. 8:36-1.3)</a>	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The individual must be able to have	October 31, 2022

		<a href="#">Also, N.J.A.C. 8:36-4.1(b)</a> and (c) partially satisfies this HCBS requirement.	visitors of his or her choosing at any time.”	
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State also will propose new regulations at 8:43B that will include, “The individual must be able to have visitors of his or her choosing at any time.”	October 31, 2022
NJAC 10:44A	Partially Compliant	<p><a href="#">Residency Agreement</a> (Individuals are free to control their own schedules; Have right to receive visitors at time of their choosing).</p> <p>Residency agreement states My service provider agrees to adhere to the standards set forth in 42 CFR 441.301 (c) (1)-(5) – Contents of Request for a Waiver. Complete text found at <a href="https://www.ecfr.gov/cgi-bin/text-idx?node=se42.4.441_1301&amp;rgn=div8">https://www.ecfr.gov/cgi-bin/text-idx?node=se42.4.441_1301&amp;rgn=div8</a></p> <p><a href="#">N.J.A.C. 10:44A – 3.1(a, b, e, f)</a> requires adherence to the rights and support provided to understand options, make choices and exercise rights.</p> <p>Division’s rights document: <a href="#">Participant Statement of Rights and Responsibilities</a>, (Exercise Rights; make own decisions; live life as</p>	<a href="#">N.J.A.C. 10:44A-3.2(a) and (b)</a> revisions will indicate that both licensee and house rules must be in accordance with the Division’s rights document, which includes the right to have visitors at any time unless otherwise determined in a person-centered planning process.	October 31, 2022



		choose to free of judgement or interference; etc.)		
NJAC 10:44B	Partially Compliant	<a href="#">N.J.A.C. 10:44B 3.1</a>  <a href="#">Participant Statement of Rights and Responsibilities</a> (Exercise Rights; make own decisions; live life as choose to free of judgement or interference; etc.)	<a href="#">N.J.A.C. 10:44B</a> will be revised in several places in subchapter 3.1 to affirm that the exercise of rights, and house rules, may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive interventions except as documented through a person-centered planning process.	
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-3.1(a), 3.4(b)11</a>	<a href="#">N.J.A.C. 10:44C</a> to be revised in several places in subchapters 3.2 and 3.4 to affirm that house rules and enumeration of rights may not conflict with the federal criteria, including but not limited to, the timing of visitors, phone calls and rise/retire, access to food, supervision, and restraints/restrictive interventions except as	October 31, 2022

			documented through a person-centered planning process.	
NJ Comp Waiver – Special Terms and Conditions	Compliant	<p><a href="#">STC 51(B)(7)</a></p> <p>The STCs require enrollees to have privacy to visit with friends and family.</p> <p><a href="#">STC 51(B)(7)</a></p> <p>The STCs require enrollees to be treated with respect and have private space for their personal items.</p>		
MCO Contract	Compliant	<p><a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).”</p>		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			

<b>441.301(c)(4)(vi)</b>	<b>In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:</b>			
<b>441.301(c)(4)(vi)(E)</b>	<b>The setting is physically accessible to the individual.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">NJAC 8:36 11.3(b)</a> partially satisfies this HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The setting must be physically accessible to the individual.”	October 31, 2022
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The setting must be physically accessible to the individual.”	October 31, 2022
NJAC 10:44A	Compliant	<a href="#">N.J.A.C. 10:44A-6.6(a), (a)1</a> <a href="#">N.J.A.C 5:23-7 NJ Barrier Free subcode</a>		

		<a href="#">Community Care Program Manual</a> – Community Experiences 17.6.4.1.1.1, Development of a Licensing Setting		
NJAC 10:44B	Compliant	<a href="#">N.J.A.C. 10:44B-6.1(z)</a>		
NJAC 10:44C	Compliant	<a href="#">N.J.A.C. 10:44C-6.6(a)1, N.J.A.C. 5:23-7</a> Barrier-Free Sub code.		
NJ Comp Waiver – Special Terms and Conditions	Silent		STC – 2 As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: “The state assures compliance with the characteristics of HCBS settings as described in the 1915(c) and 1915(i) regulations in accordance with implementation/effective dates as published in the Federal Register.”	June 30, 2022
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR		

		441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(4)(vi)(F)</b>	<b>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:</b>			
<b>441.301(c)(4)(vi)(F)(1) through (8)</b>	<b>Identify a specific and individualized assessed need; Document the positive interventions and supports used prior to any modifications to the person-centered service plan; Document less intrusive methods of meeting the need that have been tried but did not work; Include a clear description of the condition that is directly proportionate to the specific assessed need; Include regular collection and review of data to measure the ongoing effectiveness of the modification; Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; Include the informed consent of the individual; Include an assurance that interventions and supports will cause no harm to the individual.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Partially Compliant	<a href="#">NJAC 8:36 7.3</a> partially complies with this HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey	October 31, 2022

			<p>Administrative Code that will include, "The following requirements must be documented in the person-centered service plan: Identify a specific and individualized assessed need; Document the positive interventions and supports used prior to any modifications to the person-centered service plan; Document less intrusive methods of meeting the need that have been tried but did not work; Include a clear description of the condition that is directly proportionate to the specific assessed need; Include regular collection and review of data to measure the ongoing effectiveness of the modification; Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; Include the informed consent of the individual; Include an</p>	
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			assurance that interventions and supports will cause no harm to the individual.”	
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The following requirements must be documented in the person-centered service plan: Identify a specific and individualized assessed need; Document the positive interventions and supports used prior to any modifications to the person-centered service plan; Document less intrusive methods of meeting the need that have been tried but did not work; Include a clear description of the condition that is directly proportionate to the specific assessed need; Include regular collection and review of data to measure the ongoing effectiveness of the modification; Include established time limits for periodic reviews to determine if the	October 31, 2022

			modification is still necessary or can be terminated; Include the informed consent of the individual; Include an assurance that interventions and supports will cause no harm to the individual.”	
NJAC 10:44A	Silent	<a href="#">Division Circular #5 Human Rights Committee</a>  <a href="#">Division Circular #34</a>	The State will propose edits to the CCP Manual that will require compliance with the HCBS settings final rule. The proposed language will include: “Any modification of the additional conditions 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: Identify a specific and individualized assessed need; Document the positive interventions and supports used prior to any modifications to the person-centered service plan; Document less intrusive methods of meeting the need that have been tried but did not	January 31, 2022



			work; Include a clear description of the condition that is directly proportionate to the specific assessed need; Include regular collection and review of data to measure the ongoing effectiveness of the modification; Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; Include the informed consent of the individual; Include an assurance that interventions and supports will cause no harm to the individual.”	
NJAC 10:44B	Silent	<a href="#">Division Circular #5 Human Rights Committee</a>  <a href="#">Division Circular #34</a>	The State will propose edits to the CCP Manual that will require compliance with the HCBS settings final rule. The proposed language will include: “Any modification of the additional conditions must be supported by a specific assessed need and justified in the person-centered service plan. The	January 31, 2022

			<p>following requirements must be documented in the person-centered service plan: Identify a specific and individualized assessed need; Document the positive interventions and supports used prior to any modifications to the person-centered service plan; Document less intrusive methods of meeting the need that have been tried but did not work; Include a clear description of the condition that is directly proportionate to the specific assessed need; Include regular collection and review of data to measure the ongoing effectiveness of the modification; Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; Include the informed consent of the individual; Include an assurance that interventions and supports</p>	
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			will cause no harm to the individual.”	
NJAC 10:44C	Compliant	<a href="#">N.J.A.C.10:44C-3.5, 3.6</a>  <a href="#">Division Circular #34</a>  <a href="#">STC 51-H</a> requires person centered plan of care development process where the individual leads the process and that a plan of care be developed and modified based on member needs according to assessment.		
NJ Comp Waiver – Special Terms and Conditions	Compliant	<a href="#">STC 51-H</a> requires person centered plan of care development process where the individual leads the process and that a plan of care be developed and modified based on member needs according to assessment.		
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet		

		<p>compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4). ”</p> <p>Article 9.6.3 – Plan of care is based on assessment; Article 9.6.5 – Plan of Care monitoring. Article 9.6.3 and 9.6.4– Plan of Care is based on assessment and is required to include specified essential elements. Article 9.6.5.A and B – Plan of Care Monitoring. Article 4.6.5.B – 3, 4, 5 and article 9.6.5.B. Article 9.6.3 requires member consent and signature on plan of care.</p>		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(5)</b>	<b>Settings that are not Home and Community-Based. Home and community-based settings do not include the following:</b>			
<b>441.301(c)(5)(i)(ii)(iii)(iv)</b>	<b>A nursing facility; An institution for mental diseases; An intermediate care facility for individuals with intellectual disabilities; A hospital; or</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially Compliant, Non-Compliant, Silent, Conflicting)</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>
NJAC 8:36	Silent	NJAC 8:36 does not address the HCBS requirement.	The State will propose new regulations under Title 10	October 31, 2022

			of the New Jersey Administrative Code that will include, “The setting must not have the qualities of an institution and must have the qualities of a home and community-based setting.”	
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The setting must not have the qualities of an institution and must have the qualities of a home and community-based setting.”	October 31, 2022
NJAC 10:44A	Partially Compliant	<a href="#">N.J.A.C. 10:44A-1.3</a> , definition for Community Residence for the developmentally disabled.	<a href="#">N.J.A.C. 10:44A</a> Revision of Community Residence for individuals with developmental disabilities definition will state that <i>“Such settings shall not be located on the grounds or immediately adjacent to public institutions serving a similar population.”</i>	October 31, 2022
NJAC 10:44B	Partially Compliant	<a href="#">N.J.A.C. 10:44B -1.3</a>	<a href="#">N.J.A.C. 10:44B -1.3</a> to be amended to reference that CCRs cannot be located on the grounds of, or immediately adjacent to, a public institution serving a similar population, in the definition of Community	October 31, 2022

			Residence for Individuals with Developmental Disabilities.	
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-1.3</a> Definitions - "Community residence for persons with head injuries"	<a href="#">N.J.A.C. 10:44C-1.3</a> definition to be revised: "Community residence for persons with head injuries" revised to include, " <i>Such residences shall not be located on the grounds or immediately adjacent to public institutions serving a similar population.</i> "	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Silent		As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: "The state assures compliance with the characteristics of HCBS settings as described in the 1915(c) and 1915(i) regulations in accordance with implementation/effective dates as published in the Federal Register."	June 30, 2022
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall "Ensure that all Home and Community Based Settings meet		

		<p>compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).</p> <p>The MCO Contract allows for IMD to be provided as an in lieu of service per the Federal Managed Care Rule.</p>		
<b>Federal Rule</b>	<b>HCBS Final Rule Setting Requirement</b>			
<b>441.301(c)(5)</b>	<b>Settings that are not Home and Community-Based. Home and community-based settings do not include the following:</b>			
<b>441.301(c)(5)(v)</b>	<b>Any other locations that have qualities of an institutional setting, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS will be presumed to be a setting that has the qualities of an institution unless the Secretary determines through heightened scrutiny, based on information presented by the State or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.</b>			
<b>Applicable Statute/Policy/Rule or Standard</b>	<b>Compliance Status (Compliant, Partially</b>	<b>Explanation of Compliance Status Determination</b>	<b>Remediation Plan</b>	<b>Proposed Completion Date</b>

	<b>Compliant, Non-Compliant, Silent, Conflicting)</b>			
NJAC 8:36	Silent	NJAC 8:36 does not address the HCBS requirement.	The State will propose new regulations under Title 10 of the New Jersey Administrative Code that will include, “The setting must not have the qualities of an institution and must have the qualities of a home and community-based setting.”	October 31, 2022
NJAC 8:43B	Non-Compliant	The regulation has expired and is therefore non-compliant.	The State will propose new regulations at 8:43B that will include, “The setting must not have the qualities of an institution and must have the qualities of a home and community-based setting.”	October 31, 2022
NJAC 10:44A	Partially Compliant	<a href="#">N.J.A.C. 10:44A-1.3</a> , definition for Community Residence for the developmentally disabled.	<a href="#">N.J.A.C. 10:44A</a> Revision of Community Residence for individuals with developmental disabilities definition will state that “Such settings shall not be located on the grounds or immediately adjacent to	October 31, 2022



			public institutions serving a similar population.”	
NJAC 10:44B	Partially Compliant	<a href="#">N.J.A.C. 10:44B -1.3</a>	<a href="#">N.J.A.C. 10:44B -1.3</a> to be amended to reference that CCRs cannot be located on the grounds of, or immediately adjacent to, a public institution serving a similar population, in the definition of Community Residence for Individuals with Developmental Disabilities.	October 31, 2022
NJAC 10:44C	Partially Compliant	<a href="#">N.J.A.C. 10:44C-1.3</a> Definitions - “Community residence for persons with head injuries”	<a href="#">N.J.A.C. 10:44C-1.3</a> definition to be revised: “Community residence for persons with head injuries” revised to include, “Such residences shall not be located on the grounds or immediately adjacent to public institutions serving a similar population.”	October 31, 2022
NJ Comp Waiver – Special Terms and Conditions	Silent		As part of the forthcoming 1115 renewal, we plan to add the following language to STC 51: “The state assures compliance with the characteristics of HCBS settings as described in the	June 30, 2022

			1915(c) and 1915(i) regulations in accordance with implementation/effective dates as published in the Federal Register.”	
MCO Contract	Compliant	<a href="#">Article 9 (sections 9.3.1.B.2, 9.5.1.B.1 and 9.7.2)</a> of the MCO contract currently states that the Contractor shall “Ensure that all Home and Community Based Settings meet compliance by March 17, 2022 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).” These sections of the MCO contract are amended to state: “Ensure that all Home and Community Based Settings meet compliance by March 17, 2023 with the final federal home and community-based services regulations as per 42CFR 441.301(c)(4).”		