State of Rhode Island & Providence Plantations

Updated TRANSITION PLAN TO IMPLEMENT THE SETTINGS REQUIREMENT

FOR HOME AND COMMUNITY BASED SERVICES

CMS FINAL RULE OF JANUARY 2014

June 7, 2018

Summary:

In January 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule (42 CFR 441.301 and 441.710) regarding Medicaid-funded home and community based services (HCBS). The rule applied to HCBS provided under 1915(c) authorities. Rhode Island's authority to claim Federal Medicaid match for HCBS is under our 1115 Waiver.

The intent of the rule is to ensure that Medicaid–funded HCBS are provided to individuals in a setting that is integrated and supports full access to the community; are selected by the beneficiary; ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint; optimize autonomy and independence in making life choices; facilitate individual choice regarding services and supports, and who provides them; and are based on a person-centered service plan.

Components addressed in the Updated Transition Plan:

Rhode Island's Updated Transition Plan will encompass the following:

- An updated description of the State's process for compliance with Medicaid-funded HCBS rules (p.2)
- On-going Monitoring of Settings (p. 4-5)
- An updated transition plan matrix with milestones towards deliverables; and start and end dates for each deliverable. (p.7-13)
- An updated plan of remedial actions for a 100% validated sample size of all the settings (p.14)
- Department of Justice Consent Decree and Transition Plan (p.14-15)
- Heightened Scrutiny (p.15-17)
- Relocating Beneficiaries (p.17-18)

Materials included in the Transition Planning Document:

Background 1115 Waiver

State Team Responsibilities

Vision for Training and Compliance

Existing Settings in HCBS Programs and Assessment Tool Review Process

Updated Rhode Island's Statewide Transition Plan Matrix –Areas of Vulnerability and Remedial Actions

Statements of Public Notice from the initial Transition Plan submitted June 2015

Summary of Public Comments from the initial Transition Plan submitted June 2015

List of Providers

Provider Self-Assessment Tools for Residential and Non-Residential Settings

Background-1115 Waiver

All of Rhode Island's Medicaid-funded HCBS are authorized under an 1115 Waiver. The State's Waiver application was approved by CMS for five (5) years, from December 23, 2013 through December 31, 2018.

Medicaid-funded HCBS authorized in the 1115 Waiver are provided to the following populations when they meet both clinical and financial eligibility requirements:

- Aged, blind and disabled individuals
- Individuals at risk for LTC with income at or below 250 percent of the FPL, who are in need of home and community-based services
- 217 like Categorically Needy Individuals receiving HCBS waiver-like services & PACE-like participants in the Highest need group
- 217 like Categorically Needy Individuals receiving HCBS waiver-like participants in the High Need group
- 217 like Medically Needy receiving HCBS waiver-like services in the community (High and Highest group). Medically Needy PACE-like participants in the community
- Adults living with disabilities with incomes at or below 300 percent of the SSI with income and resource lists above the Medicaid limits
- Adults aged 19-64 who have been diagnosed with Alzheimer's disease or a related Dementia as determined by a physician, who are at risk for LTC admission, who need home and community care services, and whose income is at or below 250 percent of the FPL

- A list of Core Services of the 1115 Waiver is defined in Attachment A (p.48-53p.).

The Settings that will be reviewed for programs and facilities are the following:

- 281 Residential Settings
- 13 Agencies providing Shared Living (Shared Living is provided by both OHHS and BHDDH. The programs are operated under two different models, with BHDDH having more non- family providers.)
- 29 Day/Employment Programs*
- 34 Assisted Living Sites
- 29 Adult Day Programs

The state achieved its goal of 100% response rate for provider self- surveys. Consumer surveys, site visits, engaging advocacy groups (ombudsman), licensing reviews was to validate the assessment process. The data provided in comprehensive review of compliance for residential and nonresidential settings. These assessments were completed for all HCBS settings in 2016 and 2017 and for those settings identified as not complying have been made available by setting for public comment.

Following completion of the provider surveys, the State conducted voluntary consumer surveys to further assess HCBS compliance with settings /policies and to evaluate participants experiences within the setting.

To ensure the validity and neutrality, surveys were administered by either state personnel, contracted entities, or independent stakeholders under state staff supervision. Survey interviewers were provided with training about the HCBS Final Rule requirements, expectations on survey administration and strategies to ensure neutrality throughout the process. Participants or authorized representatives were offered the survey through a variety of methods, including in person, mail or e-mail. The State's goal was a response rate of 30% of all participants with no minimum requirement for each individual setting and achieved a response rate of 10%.

State Team Responsibilities:

The State Team consists of the Executive Office of Health and Human Services (EOHHS) and the Departments that are under the EOHHS umbrella: The Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals; the Department of Health, the Department of Children, Youth and Families; and the Department of Human Services; Division of Elderly Affairs. The State worked in tandem with stakeholders and advocacy groups such as, Advocates in Action (AIA); Community Provider Network of Rhode Island (CPNRI), Rhode Island Developmental Disabilities Council (RIDDC); Leading Age Rhode Island; Rhode Island Assisted Living Association, Rhode Island Disabilities Law Center (the State's P&A agency) (RIDLC), the Long-term care ombudsman and The Paul V. Sherlock Center on Disabilities.
Monthly engagement meetings with stakeholders will continue to serve as a process for educating the public about the new rules as well as an opportunity for feedback. Until the Final Rule is fully implemented, the Transition Plan will be an open document/process that works with all stakeholders to achieve gradual implementation. Until the Final Rule is fully implemented the transition plan will be an open document used for guiding achieving milestones and guiding the Team's work.

The State team, with continued stakeholder engagement will remain critical for full implementation of the Final Rule by March 17, 2022. These monthly engagement meetings will continue to serve as process for educating the public about the new rules, provide an opportunity for feedback, and guide the full implementation process.

Vision for Training and On-going Monitoring of Settings:

To ensure that Rhode Island has the capacity to implement the Transition Plan, the State team developed an inter-departmental training, technical assistance and compliance team.
As the State team continues to identify areas of non- compliance that need to be addressed within the State agencies and service providers, a team of state-led trainers and technical assistance staff will be available to assist.

Depending on the need of each agency, more intensive technical assistance may be offered by the State team to bring programs, policies and practices into compliance; therefore, the training team will incorporate extensive technical support to providers.

The State team will utilize its compliance resources to lead an inter-departmental team to monitor agencies' compliance. Monitoring may be supplemented by interns from state universities and colleges programs. State educational institutions have areas of study that focus on human services, including Developmental Disabilities, Elder Care, Nursing and Social Work. The State feels that utilizing our colleges and universities will benefit the State as well as the students by providing a practical work experience.

Existing Settings in HCBS Programs and Assessment Tool Review Process:

Provider Self-Assessment

Rhode Island developed two self-assessment tools, one for residential settings and one for non-residential settings, using CMS exploratory questions and other settings requirements compliance toolkits available on Medicaid.gov. The state required participation from 100% of providers and 100% of settings who render services to individuals receiving Medicaid HCBS. For providers that operate multiple settings, they were required to complete a self-assessment for each setting that they operate. The self-assessment tool was initially conducted on paper, but was transitioned to an online survey tool for greater ease of participation.
Residential providers and settings serving individuals receiving Medicaid HCBS in Rhode Island include assisted living facilities, community residences, semi-independent apartments, and shared living arrangements. Non-residential providers and settings include adult day care, center-based day, community-based day, and sheltered workshops. Note: sheltered workshops were not evaluated for compliance with the HCBS final rule because these settings are in the process of closing. Please see the Consent Decree section for more information about the transition of sheltered workshops.

Please refer to Attachment E for Provider Self-Assessment Tools for Residential and Non-Residential Settings (Tool 1 and Tool 2, respectively)

Provider Assessment Validation Process

Rhode Island created a validation process to ensure that 100% of provider self-assessments were validated through a combination of consumer surveys and desk policy reviews. Consumer and advocacy groups have driven the discussion and process on the administration of the consumer surveys.
The preferred method of validation was conducting consumer surveys, and when possible, Rhode Island conducted one or more consumer surveys at the setting. The consumer survey tool is similar to the provider self-assessment tool and included questions about the consumer's experience at the setting. This method is resource intensive, which is why the state was not able to conduct consumer surveys at 100% of the settings. However, Rhode Island did conduct at least one consumer survey at most of the settings where individuals receive Medicaid HCBS. Please see Table 1 below for a detailed view of the validation methods used for residential, non-residential, and shared living settings. Consumers, caregivers, providers, and all other stakeholders will continue to have input into the review process and ongoing monitoring of providers and settings.

As a secondary means of validation, Rhode Island required providers to make available their policies for each setting that demonstrated compliance with each setting requirement of the HCBS Final Rule. Assisted living facilities and adult day cares were required to submit their full policy to the state, while licensed DDOs, shared living arrangements, and semi-independent apartment programs were asked to provide only the specific sections of their policies that demonstrated compliance. Staff were trained on the HCBS Final Rules by supervisors with a deep knowledge and understanding of the federal requirements and they conducted the desk reviews of the provider policies. For each setting requirement, staff determined if the provider policy was compliant or not fully compliant.

Table 1. Completed Validation Method per Percentage of Settings

	Validation Method Completed (Percentage of Total Settings)	
Setting Type	Consumer Surveys	Desk Policy Review
Residential	61%	100%
Non-Residential	68%	100%
Shared Living	XX%	100%

Remediation Process

Rhode Island developed a database to evaluate and maintain the results of the provider self-assessments, consumer surveys, and desk policy reviews. This database enables the state to generate customized compliance reports for each of the settings, as well as identify common areas of non-compliance that may indicate a larger systemic issue where greater technical assistance should be provided to all providers and settings. When a provider self-identified non-compliance, and/or when a consumer's response differed from the provider's response, the compliance report prompts the provider to create an action plan. Similarly, when a provider's policy was deemed to be only partially compliant or non-compliant, the provider was required to draft a plan for remediating its policies.
The compliance reports were shared with providers to guide them through remediation and assist in assuring compliance. The provider will be required to submit periodic updates to the state team on its progress to assure completion by March 2019. If the provider's plan for compliance is deemed to be inadequate, Rhode Island will work with the provider to identify key activities that will bring its settings into compliance. The state will provide ongoing technical assistance and guidance to ensure smooth transition and full compliance with the HCBS Final Rule. Please see Appendix for a sample of the grid and graph.

None of the Medicaid HCBS settings operating in Rhode Island are currently fully compliant with the HCBS final rule. Nearly all the settings require minor modifications to come into compliance, with the exception of those settings that will be subject to heightened scrutiny and the two settings that will be required to close. Please see the Heightened Scrutiny sections for more information about these settings.

Next Steps

The assessment process and the compliance analysis allowed the state to target technical assistance to providers who have been identified or have self-identified as not fully compliant. As the state provides technical assistance and providers create their action plans, the state will track their progress towards compliance with the HCBS final rule through periodic updates as well as through the new ongoing monitoring processes. As required by CMS the State conducted onsite visits with providers, sites chosen for visits were based on requests for assistance with the Final rule, heightened scrutiny assessments, and document review.
With the extension of the compliance date for the HCBS Final Rule, HCBS settings in Rhode Island have been given until September 30th, 2018 to provide the State with an update compliance plan. The review process would then be completed by State staff by the end of 2018. Many providers are choosing to submit earlier and are reviewed when received.

Examples of remedial action include:

- Rewriting of policies/ procedures
- Posting of notices related to grievances
- Rewriting of resident agreements
- Increasing staff training on issues related to respect, privacy
- Changing of House Rules that did not allow for autonomy, restricted choice

Updated Rhode Island's Statewide Transition Plan Matrix:

The updated matrix of the transition plan provides the milestones toward the deliverable for full remediation. In summary, the goal was to initiate action plans from the providers starting October 1, 2016. The State will allow 60 days for a plan to be submitted to the State for State review. The State will review and approve plans for remediation 90 days after receiving the plan. Periodic updates to the state team on progress to assure completed by September 30, 2018. State will provide technical assistance as needed for compliance.

The following table describes The Executive Office of Health and Human Services comprehensive transition plan. The State's Transition Plan includes the following elements:

- Stakeholder review and Public Comment Process of Updated Transition Plan
- Assessment Process and Remediation
- Heightened Scrutiny and Remediation
- Remediation plan for changing statutes, regulations, certification standards and policies
- On Going Monitoring

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
1115	1. Stakeholder review and Public Comment Process of Updated Transition Plan	February 1, 2016	July 31, 2016	Comments and responses from state team meetings, Comments and responses from EOHHS Monthly Task Force meeting, EOHHS website, and response to postings Feb 2016	EOHHS, BHDDH, DOH, CPNRI, DCYF, DHS/DEA, ICI CAC, Sherlock Center, Leading Age RI, RIALA, Advocates in Action, RI Developmental Disability Council, Long Term Care Coordinating Council[1]	Completion of updated transition plan with public comments by March 31, 2016	Updated transition Plan approved by CMS by July 31,2016
	Milestones towards deliverable: 1) Updated transition plan to be posted electronically for public comment for 30 days at EOHHS Web site and Non-electronically posted in the Providence Journal newspaper by February 29, 2016. 2) All public comments will be reviewed, responded to and incorporated into the transition plan that will be submitted to CMS by March 31, 2016. 3) Updated Transition plan will be approved by CMS by July 31, 2016						Completed
1115	2. Assessment Process and Remediation	April 30, 2015	September 30, 2017	Comments and responses from EOHHS Monthly Task Force meeting, EOHHS website, E-mail and monthly	EOHHS, BHDDH, DOH, CPNRI, DCYF, DHS/DEA, ICI CAC, Sherlock Center, RIALA, LeadingAge RI, Advocates in Action, RI Developmental	Completion of the Assessment Process by July 21,2017	Completed

[1] "EOHHS" is the Rhode Island Executive Office of Health & Human Services; "BHDDH" is the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals; "DOH" is the Rhode Island Department of Health; "CPNRI" is the Community Provider Network of Rhode Island; "DCYF" is the Rhode Island Department of Children Youth and Families; "DHS/DEA" is the Rhode Island Department of Human Services, Department of Elderly Affairs; "ICI CAC" is the Rhode Island Integrated Care Initiative Consumer Advisory Committee.

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
				Stakeholder meetings	Disability Council, Long Term Care Coordinating Council		
	Milestones towards deliverable: 1) On-going monthly state team meetings to review and disseminate all information to relevant stakeholders on the status of the assessment process. On-going until full compliance with Final Rule 2019. 2) All Provider Self assessments completed and validated, with evidence to support each question by July 21,2017 3) Initiation of Consumer Survey started in October 2015, with completion by July 31, 2016 4) Developing database for aggregating data for review by January 31, 2016 in order to be able to analyze data after completion of assessment process, February 28,2017. 5) Analyzing data and provide each provider with areas of vulnerability that need remedial action by May 31,2017 6) Public Comment on assessment results and final submission to CMS by May 15,2018. 6) Initiate remediation strategy of action plans starting September 30,2018. After the State has identified in each setting the areas for remediation, the State will allow 60 days for a plan to be submitted to the State for State review. The State will review and approve plans for remediation 90 days after receiving the plan. Periodic updates by the providers to the state team on progress to assure completed by December 31,2018. State will provide technical assistance as needed for compliance.						In process
1115	3. Heightened Scrutiny and remediation	January 31, 2016	March 2019	Comments and responses to EOHHS Monthly Task Force meeting, EOHHS website, E-mail and non-electronic mail or distribution at Stakeholder meeting	EOHHS, BHDDH, DOH, CPNRI, DCYF, DHS/DEA, ICI CAC, Sherlock Center, LeadingAge RI, RIALA, Advocates in Action, RI Developmental Disability Council, Long Term Care Coordinating Council	Remediate all settings designated with Heightened Scrutiny by March 2019	In process

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
	Milestones towards deliverable: 1) State will notify each provider individually by January 31, 2016 if they must go through the Heightened Scrutiny Review process. Each setting will post the letter in the setting so Consumers are aware of the issue. 2) State will work with each designated setting to create a rebuttal portfolio and submit to CMS for review by May 31,2016. 3) State will post electronically on the EOHHS HCBS web site and non-electronically in the Providence Journal for 30-day comment period, the addresses of those settings requiring Heightened Scrutiny. State will post after CMS approval of updated transition plan. Tentative date of 8/01/2016 4) State will record comments and make necessary changes to the updated transition plan. 5) Upon notification from CMS, State will notify facility of CMS determination. Those facilities deemed compliant by CMS will be removed from Heightened Scrutiny list. The State will work with those facilities that are still considered non-compliant to create a remediation plan or create a transition plan for those individuals receiving services within that setting. The State Team will work with all individual Heightened Scrutiny settings to develop and implement action plans starting October 1, 2016. The State will allow 60 days for a plan to be submitted to the State for State review. The State will review and approve plans for remediation 90 days after receiving the plan. Periodic updates by the providers to the state team on progress to assure compliance by September 30, 2017 6) If any setting remains out of compliance, the State will work with individuals in these setting to transition to a new setting that is integrated and is of the participant's choice. This process will begin in *June 2019*						
1115	4. Plan and Remediation for changing statutes, regulations, certification standards and policies	February 1, 2015	March 2019	State team does internal reviews of statutes, regulations and policies pertaining to all HCBS	State team, providers, advocacy groups and identified key stakeholders to review statutes, regulations and policies with providers input into statutes, regulations	All statutes, regulations and policies in compliance by March 2019	In Process

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
					and policies with providers		
	Milestones towards deliverable: 1) A complete list/grid of regulations, policies, certification standards and statues that need remediation will be completed by January 30, 2016. 2) The Grid will be provided to stakeholders by February 5, 2016 and posted on the HCBS website and be presented at the Stakeholder meeting January 25, 2016. 3) The State will request comments and feedback to the list by February 19, 2016. 4) The State will then compile a final grid/list statute, regulations, certification standards and polices by March 1, 2016. 5) By April 1, 2016 the State will provide stakeholders with proposed changes to each item on the list/grid for comments. 6) The State will follow the rule making process and initiate rule changes by June 1, 2016. For each rule the State is required to provide a fiscal impact and description for the change. Rule changes may require public hearings prior to implementation. The State will prioritize each rule that requires public comment and follow until completion. The goal for completion of the rule making process is June 30, 2017 7) For legislative rule changes, the State will initiate the process in June year 2016 with the goal for completion by June 30, 2017. 8) All certification standards and polices that require to be rewritten as remediation will be completed by June 30, 2017. 9) The monthly stakeholder meetings and HCBS will provide stakeholders and the public with updates with regulations that have been updated. 10) State team will monitor for compliance and remediation of the changing statutes, regulations, and certification standards and polices, starting June 30, 2017 and expect full compliance by March 2019. .						

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<tr><th>Waiver</th><th>Item</th><th>Start Date</th><th>End Date</th><th>Sources</th><th>Key Stakeholders</th><th>Deliverable</th><th>Completed</th></tr>
<tr><td></td><td colspan="6"></td><td></td></tr>
<tr><td rowspan="3">1115</td><td>5. On-going Monitoring</td><td>March 2022</td><td>On-going</td><td>State Team</td><td>State team</td><td></td><td>To be initiated March 2022and be on-going</td></tr>
<tr><td colspan="6">Milestone towards deliverable:
1) The monitoring process past 2022 will consist of each Department including the HCBS final rules as part of their regulations and or certification agreements. As a result, as part of State auditing and licensing review, HCBS final rule will be embedded into each Department’s auditing, oversight and monitoring process. Start date is March 2022 and end date is on-going.
2) As part of the provider enrollment process and on-going monitoring, all new providers will be required to meet the new HCBS setting final rule at the time of enrolling to be a Medicaid provider.</td><td></td></tr>
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Areas of Vulnerability and Remedial Actions:

The State team initiated the provider self-assessment tool in February 2015, by sampling approximately 10% of all the settings. This was done to provide feedback on the use of the tool and to provide the State and stakeholders with a preliminary overview of the settings. By June 30, 2016 the remaining 90% of the settings submitted their provider self-assessments. In addition, consumer surveys, site visits, engaging advocacy group (ombudsman), licensing reviews and/or the use of National Core Indicators were used to validate and complete the assessment process.

The State will provide an analysis of this sample and identify the areas that need remediation by August 31, 2016. More specifically, State will have a grid that identifies each setting and the areas of vulnerability that need compliance. The State will use this grid to work with each setting for full compliance with the HCBS final rule Please see Appendix for a sample of the grid and graph. Each setting submitted information to the State which was reviewed by State staff that have been highly educated about the HCBS Final Rule. The information was entered the grid and the analysis was shared with each setting on the areas of vulnerability regarding the HCBS final rule

Each setting then had the option of technical assistance by a State Staff member to review and discuss the needs identified through the data analysis. The setting then had to submit an action plan to be reviewed by the State with a date of planned correction.

With the extension of the compliance date for the HCBS Final Rule, HCBS settings in Rhode Island have been given until September 30th, 2018 to provide the State with an update compliance plan. The review process will then be completed by State staff by the end of 2018. Many providers have chosen to submit earlier so that the any continuing issues with compliance can be addressed.

Examples of remedial action include:

- Rewriting of policies/ procedures
- Posting of notices related to grievances
- Rewriting of resident agreements
- Increasing staff training on issues related to respect, privacy
- Changing of House Rules that did not allow for autonomy, restricted choice

The updated matrix of the transition plan provides the milestones toward the deliverable for full remediation. The State will allow 60 days for a plan to be submitted to the State for State review. The State will review and approve plans for remediation 90 days after receiving the plan. Periodic updates to the state team on progress to assure completed by September 30, 2018. State will provide technical assistance as needed for compliance.

Department of Justice Consent Decree and Transition Plan:

The DOJ has very specific requirements as to how the State of Rhode Island must transition and transform its current system of day and employment supports for individuals with intellectual and developmental disabilities. The Department of Behavioral Healthcare Developmental Disabilities and Hospitals (BHDDH), the Rhode Island Department of Education and the Office of Rehabilitation Services must ensure that all services are person-centered and fully integrated. These requirements and the current restructuring of the system will comply with the Consent Decree and additionally align the system with the HCBS rule.

BHDDH is aware of the system changes that need to be made regarding employment settings and the requirements of the DOJ. The Department of BHDDH has contracted with *the Paul V. Sherlock Center on Disabilities*, a quasi-state agency who is providing technical assistance with regards to the DOJ mandates. The Department of BHDDH is aware of which settings are not in compliance with the mandates of the DOJ and has begun working with the agencies within the system to assist in becoming compliant.

Heightened Scrutiny

To identify settings that may have the qualities of an institution, the state first evaluated the design and requirements of each HCBS setting type that exists in Rhode Island against the federal criteria of settings presumed not to be home and community-based. Settings presumed not to be home and community-based include:

- Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- Settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

There are four types of HCBS residential settings and four types of HCBS non-residential settings currently operating in Rhode Island. Assisted living facilities and adult day care settings primarily serve elderly individuals and those with Alzheimer's disease or Dementia. Individuals with I/DD receive services at group homes/community residences, semi-independent apartments, community-based day programs, center-based day programs, and sheltered workshops. Both populations may also receive residential services through shared living arrangements.

Residential Settings:

- Assisted Living Facility: A residence that provides personal care assistance to meet the needs and preferences of individuals. This setting type is not specific to Medicaid HCBS, and there are other individuals who receive services in these settings that do not receive Medicaid HCBS. Therefore, this setting is not isolating, but there are 12 facilities that are in buildings that also provide inpatient institutional treatment. Therefore, these 12 facilities will be subject to heightened scrutiny.
- Community Residence: Group homes or fully supervised apartment programs in the community that offer 24-hour staff to support rehabilitative treatment, habilitation, psychological support and/or social guidance for three or more persons with developmental or cognitive disabilities. The state reviewed provider self-assessment results with consumer survey results, and while these settings are specific to individuals receiving Medicaid HCBS, they do not isolate these individuals from the broader community. Rather, they allow individuals to live in the community amongst others not receiving Medicaid HCBS. The state mapped each of these residences to determine if any clusters existed which may have the effect of isolating individuals.
- Semi-Independent Apartment: These apartments were developed in Rhode Island with Department of Housing and Urban Development (HUD) funding to enable individuals with I/DD to live independently in the community. These settings do not offer 24-hour staff, but they provide support and assistance to individuals when needed. These settings are one or two-bedroom apartments that exist within the same apartment building, but they do not have the effect of

isolating individuals receiving Medicaid HCBS from the broader community since these apartments allow them to maintain their own schedule and engage in community life to the greatest extent possible.

- Shared Living Arrangement: A residence for an adult with I/DD or who is aged and/or has Alzheimer's disease or Dementia where a caregiver, who may or may not be related to the individual, provides core residential support services to the individual. This setting type allows the individual to live in the community in a non-disability specific setting while still assuring that the individual is receiving the services that s/he needs.

Non-Residential Settings

- Adult Day Care: These settings provide frail and functionally challenged adults, including those with Alzheimer's or Dementia, with care and supervision in a safe environment. These settings often serve individuals not receiving Medicaid HCBS and so, they do not have the effect of isolating individuals receiving Medicaid HCBS from the broader community. Additionally, these settings were mapped to determine if any were in buildings that provide inpatient institutional treatment or if any were on the grounds of or adjacent to a public institution. After this review, the state determined that none of the adult day care settings will be subject to heightened scrutiny.
- Center-Based Day: This program is a facility-based program where individuals with I/DD receive services such as education, training, and opportunities to acquire the skills and experience needed to participate in the community. This program is undergoing a restructuring because of the consent decree described above. Each program will be including more integrated activities and will be working with participants to identify opportunities to engage in the greater community. Since the focus of this program is shifting to a more integrated model, the state does not believe these settings isolate individuals receiving Medicaid HCBS from those who do not receive Medicaid HCBS, and therefore, these settings will not be subject to heightened scrutiny.

After reviewing the provider self-assessment, recent reviews, and an onsite assessment by the Sherlock Center, the services at an employment program were determined not to meet HCBS requirements. This site and its employment program display 'institutional' characteristics as defined by CMS; specifically, this setting 'has the effect of isolating individuals receiving Medicaid home and community-based services from the broader community'. The major issues are that the workforce is not integrated, and the program is co-located in a building used solely for center-based day programs for individuals with developmental disabilities.

The Provider has submitted a transition plan to come into compliance. The Provider agency will be working with the Sherlock Center and the Conversion Institute to make the necessary changes to meet full compliance by 2019.

- Community-Based Day: This program allows individuals with I/DD to receive services and supports in the community at times, frequencies, and with persons of their choosing during hours when they are not receiving supported employment or residential services. This program is fully integrated into the greater community and services may be provided in multiple settings in the community. Therefore, this program is not subject to heightened scrutiny.
- Sheltered Workshops: These settings are facility-based and typically congregate many individuals with I/DD. Rhode Island is in the process of transitioning individuals out of these programs into more integrated settings and all the existing sheltered workshops will close by 2019. The state does

not intend to demonstrate that these settings overcome the presumption of not being home and community-based since the state believes these programs do isolate individuals from the greater community. Therefore, the state will not invoke heightened scrutiny for these settings and sheltered workshops will no longer be available for individuals to receive services in the future.

Setting Type	Number of Settings Subject to Heightened Scrutiny	Reason for Heightened Scrutiny
Assisted Living Facilities	11	Located in a building that provides inpatient institutional treatment
Community Residences	0	Have the effect of isolating individuals from the broader community
Semi-independent Apartments	0	N/A
Shared Living Arrangements	0	N/A
Adult Day Care	0	N/A
Center Based Day	1	Have the effect of isolating individuals from the broader community.

For each setting that is subject to heightened scrutiny, the state will conduct an on-site visit to the setting to observe the setting and interview participants and staff. During the visit, the state will also collect key information about the setting's location and home and community-based characteristics. The state will then compile all the evidence of how the setting overcomes the presumption of not being home and community based into a summary of findings

Prior to submitting the evidence summary package to CMS for heightened scrutiny, the state will notify affected individuals and advocacy groups, and then publish the package for a 30-day public comment period. Individuals and groups who will be notified about the opportunity to provide public input include individuals residing in the setting, their guardians (if applicable), and their families, as well as aging and disability rights advocacy organizations. The state anticipates submitting settings for heightened scrutiny in the fourth quarter of 2018

Relocating Beneficiaries

Only two settings in the state of Rhode Island were determined to be non-compliant and unable to achieve compliance with the HCBS final rule. These settings are licensed as a community residence, but were similar in nature to an intermediate care facility for individuals with intellectual disabilities. The individuals residing in these settings typically had more significant medical needs and the setting was more institutional in nature. The setting was unable to meet the criteria outlined in the HCBS Final Rule due to the size, structure, day to day operations and isolating nature of the design. The state will be working with the settings to relocate individuals currently residing there with the goal of closing one setting in Spring of 2018 and the second setting by 2019. The following steps were taken to ensure that individuals were afforded choice in the relocation process:

- Determine official closure date with the setting;
- Notify individuals and case managers of the closure date and that they will need to choose a new residential setting, minimally 60 days prior to the closure of the setting;
- Require case managers to work with the individual to plan a person-centered planning meeting to identify other residential setting options;
- Ensure individuals can visit the setting options before choosing a new residential setting.

For settings that are subject to heightened scrutiny, the state will wait until CMS reviews the evidence it submits for each setting before discussing relocation plans with these settings. If CMS agrees with the evidence and determines that the setting overcomes the presumption of not being home and community-based, the state will not relocate participants. However, if CMS determines that the setting appears institutional and does not overcome the presumption of not being home and community-based, the state will work with both CMS and the setting to determine if remediation is possible. If remediation of the setting is not possible and CMS advises that the setting should close, the state will work with the setting to determine a reasonable closure date, well in advance of March 17, 2022. The state will then follow the relocation process to ensure that all individuals residing in the setting will have their choice of new setting in the most integrated environment available.

Transition Process/Relocating Beneficiaries

The State is proposing that the transition process for individuals in any setting that does not meet compliance for the HCBS Final Rule would begin as settings are identified through the process of Heightened Scrutiny. The goal of the state is to identify and work with agencies to assist in all possible cases to meet the guide lines identified in the HCBS Final Rule. When agencies cannot come into compliance, the State will follow the process described below.
The State is proposing that we will begin the process of transitioning individuals in settings that cannot come into compliance 30 months prior to the full compliance date of March 17, 2022. This date allows the State to work with individual providers on compliance issues for the next two years to assist them in achieving compliance. The State believes that the extra work and assistance to providers will minimize the number of individuals who need to transition and the overall impact on consumers. At the time of this current version of the State Transition Plan an approximate number of consumers who may be impacted is 65 individuals. If an agency chooses not to maintain their Medicaid provider enrollment status, the individuals residing or attending will be prioritized.

Transition Process:

- The State will identify settings that are not in compliance and unable to achieve compliance, and the number of individuals residing or receiving services in each setting. The state will begin the transition process for these individuals in the calendar year 2020, which allows 2 years for the State to transition all individuals in in non- compliant settings. Individuals who are residing in non-compliant settings that are funded through Medicaid funded home and community-based services will be identified and a formal written notification to the setting and individuals will be issued.
- By 6/30/2020, the overseeing agency will facilitate a person-centered planning meeting for each individual with the transition planning team to create a written plan that supports a person-centered transition plan to a HCBS compliant setting or fully integrated community setting with

HCBS services that provide the needed support. The Person-Centered planning occurs on an annual basis. The planning extends to include an assessment for preferences of integrated settings, including non- disability settings, housemates, staff, location, etc…

- The transition planning team will include: transitioning individual, family members, guardian, individual identified representative, provider clinical and administrative staff and overseeing agency staff.
- The overseeing agency will support the transition planning team through alternative setting assessments, trial experiences, and transition to a HCBS compliant setting.
- Setting is disenrolled as a Medicaid provider

BHDDH is currently following the above process in transitioning individuals to more integrated settings. BHDDH has already begun working with providers to transition individuals out of settings that currently do not meet the requirements set forth by the Department of Justice (DOJ) consent decree. The state has committed to closing Sheltered Workshops, also defined as non HCBS compliant setting, by 2022. Additionally, two Special Care Facilities, which were determined to be unable to meet the Heightened Scrutiny guidelines, have begun to transition to more integrated settings.

Vision for Training and On-going monitoring of settings:

To ensure that Rhode Island has the capacity to implement the Transition Plan, the State team developed an inter-departmental training, technical assistance and compliance team.
As the State team continues to identify areas of non- compliance that need to be addressed within the State agencies and service providers, a team of state-led trainers and technical assistance staff will be available to assist.

Depending on the need of each agency, more intensive technical assistance may be offered by the State team to bring programs, policies and practices into compliance; therefore, the training team will incorporate extensive technical support to providers.

The State team will utilize its compliance resources to lead an inter-departmental team to monitor agencies' compliance. Monitoring may be supplemented by interns from state universities and colleges programs. State educational institutions have areas of study that focus on human services, including Developmental Disabilities, Elder Care, Nursing and Social Work. The State feels that utilizing our colleges and universities will benefit the State as well as the students by providing a practical work experience.

On-going Monitoring of settings:

Several departments within Rhode Island 's EOHHS are responsible for the licensing, certifying, and monitoring of HCBS settings. Rhode Island is currently revising monitoring processes across the agency to enhance its oversight of the provision of quality services and experiences that are more focused on consumer interests, needs, and goals.

Additionally, the State will review any new settings that seeks to provide HCBS services in any of the types of settings previously noted. The setting will be required to be in full HCBS compliance prior to the provision of services to individuals who are Medicaid eligible. This would include private residences where a contracted party /individual in which the provider is a non -relative being paid to provide Medicaid HCBS

services. The State has already reviewed such residential settings through both Shared Living programs. (The DD model of Shared living licenses the homes, the OHHS model does not) Certification standards for the OHHS Shared Living program reflect such changes and BHDDH continues to work on regulatory reform and certification standards that will align with the HCBS requirements

Ongoing monitoring of compliance to the HCBS requirements after the March 17th, 2022 deadline will be achieved through a variety of methods:

- Certification standards will be updated for all HCBS programs. The new certification standards will reflect the HCBS requirements and will inform expectations of performance by providers.
- Quality review teams will develop enhanced review processes for each setting/ program. The review processes will determine whether HCBS requirements have been incorporated and put into practice in each of the settings.
- Participants will be surveyed for their consumer experience through the DEA oversight of the Assisted Living Program. A consumer experience survey will be offered to all participants to monitor the setting's compliance with the rule on an annual basis. Please see attachment (H)
- DEA Staff/Case managers will be trained on the HCBS rule and how to monitor the Assisted Living sites for compliance.
- OHHS staff will be trained on the HCBS rule and will monitor Adult Day Settings for compliance and assist in administration of consumer experience surveys.
- DXC (Medicaid payment system) has processes in place to inform all new providers of settings (Assisted Living and Adult Day) that they must meet HCBS standards prior to becoming a provider Additionally, the Department of Health as the licensing agent for the state also refers all new providers to EOHHS for HCBS compliance.
- The State's Long-Term Care Ombudsman will be administering HCBS questions to individuals residing in Assisted Living during their monthly unannounced visits. The State has created a short list of survey questions that can be shared with the state team on a regular basis.
- Rhode Island's MCO for dual eligible individuals (Neighborhood Plan of RI) will provide additional monitoring through their credentialing system. The Plan will be required to incorporate HCBS reviews within the process. In addition, the MCOs will also have contract amendments incorporating the HCBS final rule process into their oversight and monitoring process.
- If the in the future services provided by any of the EOHHS agencies come under the umbrella of a MCO, additional oversight will be provided through the MCO credentialing and review process. The MCOs will have contract amendments to incorporate the HCBS final rule into their oversight and monitoring process.
- BHDDH staff and advocates will be provided ongoing training on the HCBS rule and how to administer the surveys to participants receiving HCBS services.
- Implementation of a new computerized case management system in BHDDH will have components of the HCBS rule built into the system. This will allow BHDDH to enhance the tracking utilization and quality of services.

Non- Disability Specific Settings

Currently, Rhode Island is working to strengthen the system for informing individuals of the Home and Community Based settings options that are available to them. Increased training to staff and contracted

agencies on options for services that are not institutionally based and allow an individual to access the services that are based on their preferences and needs. Recent approval of 811 housing vouchers for use with the Nursing Home Transition program is an example of attempts to make non- disability settings available to individuals in institutional settings. The State has also included questions in the ongoing monitoring process that discuss choice and options with each participant.
BHDDH is working with providers to determine if individuals living in group homes would like to move into a different less restrictive residential setting. Individuals will be asked if they are satisfied with their current residential placement and be offered the opportunity to discuss other residential models. This will be done at least annually at an individual's person-centered planning meeting. In addition, BHDDH is working with the providers to identify individuals who have independently expressed an interest in moving to another setting. For all individuals who want to move, there will be individualized planning around each move and a transition period for each individual so they have an opportunity to explore their new setting prior to the official move.

Furthermore, the State is in the process of renewing the 1115 Wavier. As part of this renewal BHDDH has added criteria/Level of Care so that individuals coming into the Adult DD system or currently in the system but are now seeking a residential placement are able to choose from residential supports/ settings that fit the needs of the individual and are not overly restrictive.

Statements of Public Notice:

EOHHS hosted two public meetings on Thursday, April 30, 2015 and Tuesday, May 5, 2015 for comment on the transition plan. At these meetings attendees received a copy of the Transition Plan. Prior to the meetings, the following Public Notice was advertised statewide in the *Providence Journal* on April 15, 2015. This notice enabled the public to comment electronically and non-electronically to the transition plan until May 30, 2015.

Public notice was also made available through EOHHS Website (www.eohhs.ri.gov) and notification to the EOHHS task force on April 15, 2015. Public comment was available until May 30, 2015. Additionally, on April 14, 2015, the public was noticed via e-mail (i.e., the EOHHS' "interested parties" list, comprised of 389 colleagues and community members who have self-identified as interested in EOHHS matters). This notice contained the date, time, and place of both public meetings.

Finally, public notice of the May 5, 2015 public hearing was posted on the Rhode Island Secretary of State's website (www.sos.ri.gov) on April 30, 2015 in accordance with the requirements of the State's Open Meetings Act (Chapter 42-46 of the Rhode Island General Laws, as amended).

Below is the notification that was placed in the Providence Journal on April 15, 2015.

Official transcripts of both public meetings can be seen in Attachment B.

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVCES

NOTICE OF PUBLIC COMMENT

Public Input into Transition Plan for Home and Community Based Services (HCBS) for the Center of Medicare and Medicaid Services (CMS) Final Rule of January 2014

The Executive Office of Health and Human Services is advertising for public comment on the proposed Transition Plan that will be submitted to the Center for Medicaid and Medicare Services no later than June 30, 2015.

In January 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule regarding Medicaid-funded home and community based long-term services (HCBS). The rule requires that each state develop a Transition Plan for compliance with the new rule. Rhode Island is planning to submit their Transition Plan on **June 30, 2015.** That plan will propose **June 30, 2019** as the date by which we will be compliant with the new requirements.

The summary of the intent of the Final Rule of January 2014 was to ensure that Medicaid HCBS services are provided to individuals in a setting that is **integrated** and supports full access to the community; is selected by the beneficiary; ensures an **individual's rights** of privacy, dignity and respect, and freedom from coercion and restraint, optimizes autonomy and independence in making **life choices**; **facilitates individual choice** regarding services and supports, and who provides them; and, where possible, the person leads the process of developing his or her service plan.

A public hearing will be held to consider the proposed Transition Plan on **Thursday, April 30, 2015 at 9:00 am at the Hewlett Packard 203 Conference room, 301 Metro Center Blvd., Warwick, RI 02886.** Persons wishing to testify and provide comments at the meeting may do so by signing up at the meeting or by submitting written comment by May 30, 2015, to Thomas G. Martin, Implementation Director, Executive Office of Health and Human Services, Louis Pasteur Building # 57, 57 Howard Avenue, Cranston, RI 02920, or via email Tom.martin@ohhs.ri.gov.

A copy of the Transition Plan can be obtained through the following means:

1) EOHHS website for Home and Community Based Services.

http://www.eohhs.ri.gov/ReferenceCenter/HomeandCommunityBasedServices.aspx

Scroll over to the Reference Center there is a clickable headline "Home and Community Based Services". A final version of the Transition Plan will be on the website.

2) Request a version by contacting:
   Thomas G. Martin
   Implementation Director
   Executive Office of Health and Human Services
   Louis Pasteur Bldg. #57, 57 Howard Avenue
   Cranston, RI 02920
   401-462-2596 **Fax:** 401-462-3677
   E-mail: Tom.Martin@ohhs.ri.gov

The public hearing will begin at 9:00 am and will conclude when the last speaker finishes. The seating capacity of Hewlett Packard Conference room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The Hewlett Packard building is accessible to individuals with disabilities. Individuals with hearing impairments may request an interpreter's presence by calling 711 or Relay RI 1-800-745-6575 (Voice) and 1-800-745-555 (TDD). Requests for this service must be made at least 72 hours in advance of the meeting date. Please refrain from wearing scented products to the meeting. What may seem to be a mild fragrance can constitute a toxic exposure for a person with an environmental illness. The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap.

Elizabeth H. Roberts, Secretary
Signed this 31 day of March 2015

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Summary of Public Comment
Home and Community Based Service CMS Final Rule 2014

June 19, 2015

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Maureen Maigret	Policy Consultant Senior Agenda Coalition of RI	Sent by e-mail 4/15/15 -Dear Tom, I reviewed the draft. As persons age 65 and over are significant users of assisted living and adult day programs, I would like to see it amended to specifically include the Senior Agenda Coalition of RI or another group working on aging policy, particularly as it relates to HCBS in the list of advocacy entities on pages 4-5.	4/15/15 EOHHS Response submitted by Tom Martin by email: Hi Maureen, Thanks for review of the Transition Plan. The plan sites those that are currently part of the State Team. If you would like one of these agencies to be part of the State Team, please let me know. We have been meeting twice a month on Mondays at 9am at Barry Hall in room 226. Our next meeting is 4/27/15.
Joanne Malise	Director Living Innovations/ DD Shared Living Provider	Sent by e-mail on 4/17/2015 Dear Tom Thank you for sharing the information on the Rhode Island HCBS Transition Plan. I can see that much work went in to this document. I am writing about my concerns regarding Shared Living Arrangements (SLA) and having a "legally enforceable agreement". While I completely understand the need for such a protection for the people we serve, when it comes to SLA there is a special challenge. I will bullet the concerns • SLA is in the home of "another". This means in the home of a person approved and qualified to be home provider (HP). • If a participant were to have a lease, one could argue that the Shared Living residence is their legal home while they are in residence. • If the residence is legally theirs, the SLA might no longer fall under Federal Internal Revenue Code: Sec. 131. Certain	4/27/15 EOHHS submitted by Tom Martin by email: Hi Joanne, We will review our policies and regulations on this issue. We will also seek technical assistance. We may ask to meet with you and other Shared Living Providers to vet the issue. Thanks, Tom

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		Foster Care Payments, making all stipends ineligible for tax free status If the intent of the HCBS "legally enforceable agreement" is protection from eviction there are safeguards in place to address this potential vulnerability. Some of these safeguards are in BHDDH regulation and some are the best practice of this agency • The Contract signed with independent contractors who are home providers (HP) states that a thirty (30) day notice must be given it they wish to end the SLA o In practice, most SLA's continue until a new match is made with the participant • BHDDH Regulation 42.29 states that a Thirty (30) day notice must be given if the home provider wishes to move to a new residence. o In most cases the participant chooses to remain with their HP and moves to the new home • Each SLA participant in this agency signs an Adult Service Agreement that indicates their choice of this agency and their choice to live in this particular SLA. It also states that they can terminate the agreement with 24-hour notice but preferably give a thirty (30) day notice if they wish to move o In practice, anytime a person states that they feel unsafe they are immediately offered a respite home until such issue is resolved or a new match is made. • BHDDH Regulation 42.15 states that a participant may be removed immediately if there is a threat to health or safety. How would a "lease" impact their ability to move freely? • SLA HP's are independent contractors and the contract can be terminated at any time, with or without cause. This is another safeguard measure.	

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		Thank you for your time in reading this response. I am confident we can come up with a protection that is not a "lease". I look forward to working with you Joanne	
Jenifer Crosbie/Director of Government Relations	Senior Link Caregiver Homes	Submitted Public Document on May 5, 2015. (**summary of comments and document**) Rite@home model is inaccessible to Rhode Islanders who should be accessible. Current process, timeliness and requirements in Rhode Island place unnecessary burden on consumers and caregivers, delaying access to critical and cost-effective services and duplicating efforts of paid professional staff. Urge EOHHS to consider and recommend immediate solutions that take advantage of quality providers in the provider network to expedite access to, high quality, cost-effective- community based care.	After review with State staff associated with the Caregiver Homes Program; EOHHS response submitted by Tom Martin by email: Hi Jenn, As part of the HCBS Transition Plan, the State is reviewing all rules and regulations for each program. We will review our current processes, timeliness and requirements in Rhode Island to assure access to critical services such as Caregiver Homes. Thank you for your comments. Tom
Anne M. Mulready Supervising Attorney	Rhode Island Disability Law Center	<u>Item # 1: Ongoing Participant and Advocacy Group Input:</u> a) Issue of finding existing self-advocacy groups for some participant populations (e.g., elders and people with physical disabilities), so the State may need to find ways to involve individual participants in their feedback process. b) Participants may also need some training regarding the HCBS rules requirements for them to effectively provide feedback. <u>Item #2: Settings Compliance Findings:</u> a) It is not clear whether these findings will be made public. b) If the providers of non-compliant setting will have an opportunity to appeal the finding, the process similarly needs	<u>Item # 1: Ongoing Participant and Advocacy Group Input:</u> <u>Response:</u> The State has involved all relevant stakeholders in the areas mentioned above. The State has begun to initiate a consumer survey process and group meetings among stakeholders. We had an initial meeting on May 1, 2015. We will incorporate your suggestions on training on HCBS rules requirements to facilitate an effective feedback process. RIDL is also welcome to attend these meetings. <u>Item #2: Settings Compliance Findings:</u> <u>Response:</u> All findings will be made public by updating the Transition Plan. We will post the findings on our EOHHS website and can provide updates at the EOHHS task force meeting.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		to be transparent and involve feedback from the impacted participants c) Urge the State to utilize CMS Exploratory Questions for residential settings to gain participant perspectives on whether there is strong evidence that the setting is community based. <u>Item #3: Regulation Changes:</u> a) Urge the State prioritize making regulatory changes sooner than January 2019. <u>Item # 4 Consumer Transition to Compliant Settings:</u> a) State to ensure that participants have sufficient and timely notice of the need to relocate and time for planning (using person-centered planning process) to transition to compliant services without a break in services. b) Urge State to prioritize person-centered planning implementation, so that the State will be better able to assess the desires of participants and the system's capacity to provided HCBS settings that meet those needs and desires. <u>Item# 5 Legally Enforceable Tenancy Agreements:</u> a) RIDL believes that most existing HCBS residential options (residential, assisted living) are not specifically exempt from state landlord/tenant laws, and so must comply with that law both with respect to tenancy agreements and termination of tenancies. b) Depending on the nature of the financial agreements, shared living arrangement may not be covered under the	In addition, providers will have an opportunity to review and appeal the findings. Our approach will be that of working collaboratively with providers to remediate findings with their input. This process will also be transparent. As part of the assessment process, we have identified participants/consumers as part of the process, therefore their feedback will be important to the remediation of any finding. In regard to utilizing the CMS exploratory questions for residential settings, at our meeting on May 1,2015 a tool was handed out to advocacy groups that cross walked those CMS questions. We are awaiting feedback on the tool. We can send you what was proposed at that meeting. <u>Item #3: Regulation Changes:</u> <u>Response:</u> The State's plan is not to wait until January 2019 to implement regulatory changes. Our plan is to identify regulation changes by January 1, 2016 and then begin to move issues forward with changes. This issue has been noted in the minutes of our State team meetings for the Transition Plan. <u>Item # 4 Consumer Transition to Compliant Settings:</u> <u>Response:</u> The State will ensure timely notice of the need to relocate and plan for transition without any break in services. The end date for compliance is March 2019, but the State will not use this as the benchmark to implement major life changes such as relocation and a break in service. The State has developed a Person-Centered Group that consists of advocates and stakeholders to move forward on person-centered planning. Our next meeting is June 18, 2015. RIDL is welcome to attend this meeting.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		landlord/tenant laws, so the State may need to provide models of agreements and offer processes of eviction and appeals that are "comparable" to those under state and landlord/tenant laws. <u>Item # 6: Choice of Non-Disability Specific Settings and Private Units in Residential Settings:</u> a) It is not clear from the state transition plan how the State will assess the capacity within the current system to provide these options. b) Urge the State to collect information about individual choice of settings, including non-disability settings as soon as possible. <u>Item #7: Planning for the needs of Behavioral Health participants:</u> a) We urge the inclusion of the population with behavioral health needs in transition planning, both because behavioral health services are included within our 1115 waiver and because individuals with behavioral health needs often receive services in the same settings as HCBS participants. b) EOHHS is in the process of moving forward with obtaining final state and federal approval of housing stabilization and employment supports. c) The rules for person-centered planning process for individuals with behavioral health needs form the state rules for behavioral health organizations. These rules could be updated to meet the HCBS rule's person-centered planning requirements and the process could then be used to	<u>Item# 5 Legally Enforceable Tenancy Agreements:</u> <u>Response:</u> This is an area that the State will need to re view regulations and current agreements to review for compliance. We may be seeking out Technical Assistance from CMS on this issue to see how other states have reviewed for this issue. Model agreements with processes of eviction and appeals consistent with state and landlord/tenant laws will be sought by the State. We anticipate seeking your input as we move closer to discussing this issue. <u>Item # 6: Choice of Non-Disability Specific Settings and Private Units in Residential Settings:</u> <u>Response:</u> As part of remediation strategy, the State will need to review the issue of capacity with all stakeholders to explore facilitating choice for settings. We will have to obtain some baseline data, especially regarding non-disability settings to move this issue forward. <u>Item #7: Planning for the needs of Behavioral Health participants:</u> <u>Response:</u> Persons with behavioral health needs are currently in some of the settings and HCBS services we are surveying. The State will more concretely involve behavioral health providers as we continue to meet regarding person-centered planning. As noted in your comments, EOHHS is in the process of moving towards authority for housing stabilization and employment supports. We will update the public through the EOHHS task force (and the EOHHS website: www.eohhs.ri.gov) on that process as we move forward.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		document participant preferences and desires for integrated settings.	

James Nyberg Chief Executive	Leading Age RI	Item #1: In the 7- step remedial action process, suggest including providers and other stakeholder in these processes to support the state team. Item #2: Suggest that EOHHS coordinate with the Health Department and any other relevant entities to ensure that new providers are aware of these requirements at the earliest possible time, preferably before and construction is undertaken. Item #3: Request that Leading Age RI be included in Section F) List of Providers	Item #1: Response: In the Transition Matrix of the Transition Plan, updates were made to items #4, 5 and 6, each adding the wording "providers, advocacy groups and identified key stakeholders" under the section key stakeholders. Under the 7 step-remedial action processes for assisted living and adult day care, updates were made to items #1 and 4 each adding the wording "providers, advocacy groups and identified key stakeholders" Item #2: Response: We agree that coordination with the Department of Health, EOHHS and any other relevant entities is necessary to ensure a prospective new provider is aware of the HCBS rules and requirements. Presently with the Department of Health on the State team and the inclusion of provider and advocacy groups, this issue will can be raised at State team meetings and be proactively planned for prior to any construction being undertaken. We have added to the Transition Plan under item #7 for assisted living sites and adult day programs, "Coordination between the Executive Office of Health and Human Services, the Department of Health and any other relevant entity, are to ensure that new providers are made aware of HCBS Final Rule prior to enrollment". Item #3: Response: We have added Leading Age RI to Section F) List of Providers. We apologize for the oversight. We also appreciate your advocacy, comments to the assessment tool process, and initiating an early discussion with the Executive Office of Health and Human Services on the HCBS Final Rule.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Kathy Kuiper a		<u>Item #1: Choice in Residential programs</u> a) Limited information available to look for a Day or Residential agency. b) Impossible to tell from information provided to consumer and families about residential programs, the types of living arrangements, % of clients that work in paid employment in the community and if there are any safety issuer or complaints. c) Agency that does a great job is paid same as an agency that does a poor job. <u>Item #2: Consumer Survey:</u> a) Who will help the consumer take the survey? b) Will those results be made public? <u>Item # 3: Leases</u> a) Safeguards in place for individuals relying on housing made available to them through DD residential services. <u>Item #4: Costs to Client:</u> a) Clear and in writing the cost out of pocket to live at a location. b) Will the agency be required to become Rep Payee? c) Paying of staff to come along to events? d) Required Paperwork that is updated with an understanding of who is responsible for completion of the paperwork. <u>Item #5: Dignity and Privacy:</u> a) All adults that qualify for services under HCBS should have a private room.	Kathy Kuiper kathy.kuiper@verizon.net <u>Item #1: Choice in Residential programs</u> <u>Response:</u> The issue of choice regarding available options of where to live/receive services is identified as vulnerability in our initial assessment of residential settings of the Transition Plan. Advocacy groups are part of the State team and should provide this perspective when planning remedial action. The following was added to the Transition Plan under remedial actions item #1 for Residential/Shared Living, Assisted Living and Adult Day Program: Providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy. The issue of payment amongst providers by performance is outside the scope of the Transition Plan, but from our assessment process and implementation of HCBS rules, this may help provide some guidance that may improve quality amongst all providers. <u>Item #2: Consumer Survey:</u> <u>Response:</u> We currently have groups working on developing a Consumer Assessment Tool/Survey that will be part of the overall assessment process of the settings and the individual/consumer's experience. The group is currently working on the process of the administration of the tool and the assistance needed to complete it. The results of the assessment process will be transparent and the Transition Plan will be reflected to update the public on that process.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		b) Client's apartment should not be used as an office. Item # 6: Complaint Process a) Independent complaint and investigation process. b) New entity that is funded and knowledgeable of person with disabilities. c) Report should be a public record. Items #7: Self-Assessment Planning Tools: a) Potential to be "pencil whipped" and not provide any real insight as to choices made available to clients unless the comments section is filled out Item #8: Outcome based assessments: a) Include how many clients are working day/night, # of hours per week. b) Skills gained. c) How were clients given choices, frequency of # of times in the community and not as a pack? d) If client chose not to participate, what options were put in place, or did they just sit at the house?	Item # 3: Leases Response: The lease issue has also been identified as vulnerability in the Transition Plan and through the public comment process as an area of concern. Many issues have been raised and we will need to move this issue forward with legal and technical assistance to remediate the issue. Item #4: Costs to Client: Response: As part of the process of choice of setting, providing adequate information and communication to individuals and families on all the above issues is essential. As noted earlier, we have updated the Transition Plan to state providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy. The issues you have raised will need to be part of the remedial action to include clear and in writing information on out of pocket costs, representative payee, the paying of staff to attend events and the point person in charge of completing required paperwork and available to the individual upon request. Item #5: Dignity and Privacy: Response: The intent of the Final Rule is to facilitate choice in such areas as having a private room. We know choices are made based on resources and availability. The Final Rule assures that the issue is pushed to the extent possible to honor that choice. The assessment tool for residential settings does ask these questions to assure that issue is raised.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
			Does the setting facilitate choices regarding services and supports and who provides them? Was the individual given a choice of available options regarding where to live/receive services? Was the individual given opportunities to visit other settings? <u>Item # 6: Complaint Process</u> <u>Response:</u> The issue of a newly funded independent complaint and investigative process, with a report of public record, may require legislative and regulation change. If in our review process (assessment and regulation review) we find issues with our current complaint and investigative process, we would move to review our system and discuss all options to improve these processes. <u>Items #7: Self-Assessment Planning Tools:</u> <u>Response:</u> The assessment tools in our Transition Plan do ask very specific questions about choice and person-centered planning. The responses to the following questions connect to compliance with the Final Rule. In addition, the implementation of the Consumer Survey process should help provide us a further assessment facilitating client choice. **Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?** Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
			Can individuals and chosen representatives explain the process to develop and update their plan? Were individuals present during their last planning meeting? Did/does the planning meeting occur at a time and place convenient individuals to attend? **Does the setting facilitate choices regarding services and supports and who provides them?** Are individuals given a choice of available options regarding where to live/receive services? Were individuals given opportunities to visit other settings? Does staff ask individuals about their needs and preferences? Are individuals aware of how to make a service request? Can individuals choose the provider or staff who render the services they receive? **Does the setting optimize interaction, autonomy and independence in making life choices?** Are individuals given information to assist them to make informed decisions? Are individuals learning skills to enable them to maximize independence? Item #8: Outcome based assessments: Response: Mentioned in the Transition Plan under the remedial actions for Day/Employment programs, is a survey to be done by the Paul V. Sherlock Center on Disabilities. The survey will focus on Employment and Day Programs and focus on obtaining data on integrated paid employment, facility based paid work, community based non-work activities and facility based non-work activities. This survey will be integrated into the remedial design strategy for 6/30/2016. In addition, the assessment process on the settings may also help us answer some of the questions of client participation and if clients were allowed to just sit in the house.

List of Providers:

Executive Office of Health and Human Services

Rhode Island Assisted Living Association (RIALA)

Advocates in Action

Rhode Island Council of Developmental Disabilities

Paul V. Sherlock Center on Disabilities

Community Provider Network of Rhode Island (CPNRI)

Rhode Island Parent Information Network

Executive Office of Health and Human Services Task Force

Leading Age of Rhode Island

Long Term Care Coordinating Council

Integrated Care Initiative Consumer Advisory Committee

Provider Self-Assessment Tools for Residential and Non-Residential Settings

CMS HCBS Community Rule: Assessment and Planning Tool for Settings

Residential Settings

In March, CMS finalized its HCBS Community Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services Waiver Program (HCBS). The intent of the rule is to assure that individuals receiving long-term services and supports through HCBS programs have full access to the benefits of community living and the opportunity to receive services in integrated settings. The accompanying summary of the CMS Community Rule that provides more information and further context for the Community Rule may be found here: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Rhode Island provides Medicaid-funded HCBS under the authority of an 1115 Waiver. While the final rule does not apply to states operating their HCBS under an 1115 Waiver, we support the intent of the rule and therefore will seek to comply with the requirements.

In order to meet the requirements of the new rule, states will need to develop a Transition Plan, "detailing any actions necessary to achieve or document compliance with setting requirements". States will have up to 5 years to implement their stated plan.

An integral component of the transition plan is a self-assessment/plan of existing settings to determine how closely they currently comply or don't comply with the Community Rule and if they don't comply, what is needed in terms of a plan, over the next 5 years, to come into compliance.

Attached is a tool to assist you in conducting the residential setting self-assessment. Please answer each question (bold or bullet) with either "Yes" or "No" by checking the appropriate box. To help you answer the bold question, we have provided sub-questions (in a bulleted list) underneath each bold question. These bulleted questions are additional questions for you to answer and will help guide you to answer "Yes" or "No" to the bold question. Answer each question with a "Yes" or "No".

Given the nature of your specific setting and given CMS guidance around settings that may not immediately comply with all aspects of the Community Rule, it may be more challenging to meet these requirements and be able to answer "Yes" to all bold and all bulleted questions. We assume, however, that you do aspire to achieve the outcomes articulated in the HCBS Community Rule over the next 5 years. So please be critical in your answers. We are not expecting you to answer "Yes" to every question.

Please complete and return then enclosed assessment by March 18, 2015.

Thank you for assistance!

To ensure that all community settings in which individuals receive a Medicaid Home and Community Based Service (HCBS) meet the spirit of the new CMS regulatory requirements, providers have been asked to assess their current settings and practices against the new requirements. CMS exploratory questions have been provided below to guide this assessment.

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
1. **Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?**	**Yes**	**No**	**Comments:**
• Is the setting in a public or privately-owned facility that provides inpatient treatment?			
• Is the setting on the grounds of, or immediately adjacent to a publicly-funded healthcare institution?			
• Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as they choose?			
• Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?			
• Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?			
• Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer "No" to this question.)			
• Is the setting in the community among other private residences, retail businesses?			
2. **Does the setting provide opportunities to engage in community life?**	**Yes**	**No**	**Comments:**
• Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?			
• Are individuals aware of or have access to materials to become aware of activities occurring outside of the setting?			
3. **Is the individual employed or does the individual attend day services outside of the setting?**	**Yes**	**No**	**Comments:**
• Do individuals work in an integrated community setting?			
• If an individual is of working age, are there activities with the individual to pursue work as an option?			

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• If work is not a goal, do individuals participate in meaningful day activities outside the setting?			
4. **Does the setting provide opportunities to control personal resources?**	Yes	No	Comments:
• Do individuals have a checking or savings account or other means to control funds?			
• Do individuals have access to their funds?			
5. **Does the setting ensure freedom from coercion and restraint?**	Yes	No	Comments:
• Is information about filing a complaint posted in an obvious location and in an understandable format?			
• Are individual's comfortable discussing concerns?			
• Do individuals know how to make a complaint?			
6. **Does the setting ensure dignity, and respect?**	Yes	No	Comments:
• Are individuals, who need assistance with grooming, groomed as they desire?			
• Are individuals dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?			
• Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'?			
• Is informal (written and oral) communication conducted in a language that individuals understand?			
• Does staff talk to other staff about individual(s) with dignity and respect?			
• Does staff ensure that conversations about individuals occur privately and not within earshot of other persons living in the setting?			
7. **Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?**	Yes	No	Comments:
• Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?			
• Can individuals and chosen representatives explain the process to develop and update their plan?			

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Were individuals present during their last planning meeting?			
• Did/does the planning meeting occur at a time and place convenient individuals to attend?			
8. **Does the setting facilitate choices regarding services and supports and who provides them?**	Yes	No	
• Are individuals given a choice of available options regarding where to live/receive services?			
• Were individuals given opportunities to visit other settings?			
• Does staff ask individuals about their needs and preferences?			
• Are individuals aware of how to make a service request?			
• Can individuals choose the provider or staff who render the services they receive?			
9. **Does the setting optimize interaction, autonomy and independence in making life choices?**	Yes	No	Comments:
• Are individuals given information to assist them to make informed decisions?			
• Are individuals learning skills to enable them to maximize independence?			
All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
10. **Is there a legally enforceable agreement comparable to a lease?**	Yes	No	Comments:
• Do individuals know their rights regarding housing and when they could be required to relocate?			
• Does the written agreement include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?			
11. **Are there opportunities for individuals to have privacy?**	Yes	No	Comments:
• Do staff or other residents always knock and receive permission prior to entering an individual's living space?			
• Can an individual have private visits with family and friends?			

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Is health information about individuals kept private?			
• Do individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time?			
12. **Do individuals have choice of roommates?**	Yes	No	Comments:
• Do individuals have their own bedroom?			
• If not, are individuals given a choice of a roommate? (Note: For individuals who room-share)			
• Do individuals know how to request a roommate change?			
13. **Do individuals have freedom to furnish their sleeping units?**	Yes	No	Comments:
• Are individual's personal items, such as pictures, books, and memorabilia are present and arranged as they desire?			
• Do the furniture, linens, and other household items reflect the individual's personal choices?			
14. **Do individuals have control over their schedules?**	Yes	No	Comments:
• Do individual's schedules vary from others in the same setting?			
• Do individuals have access to such things as a television, radio, and leisure activities that interest them and can they schedule such activities at their convenience?			
• Are individuals able to follow their own flexible (i.e., not set) schedule for waking, bathing, eating, exercising, activities, etc.?			
15. **Are individuals able to have visitors at any time?**	Yes	No	Comments:
• Are visitors welcomed and encouraged?			
• Is the furniture arranged as an individual prefers and does the arrangement encourage the comfort and conversation with visitors?			

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
16. **Do individuals have access to food at any time?**	**Yes**	**No**	**Comments:**
• Do individuals have a meal at the time and place of his/her choosing?			
• Can individuals request an alternative meal if desired?			
• Are snacks accessible and available anytime?			
• Can individuals sit in any seat in a dining area? (no assigned seats)			
• If an individual desires to eat privately, can s/he do so?			
17. **Do the rooms have lockable entrance doors, with individuals and staff having keys as needed?**	**Yes**	**No**	**Comments:**
• Can individuals close and lock the bedroom door?			
• Can individuals close and lock the bathroom door?			
18. **Is the setting physically accessible to the individual?** • Do individuals have full access to typical facilities in a home such as a kitchen, cooking facilities, dining area, laundry, and comfortable seating in the shared areas?	**Yes**	**No**	**Comments:**
• For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.?			
• Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?			
• Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?			
• Are appliances accessible to individuals (e.g. the washer/dryer are front loading for individuals in wheelchairs)?			

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?			
19. **Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?**	Yes	No	Comments:
• Does documentation note if positive interventions and supports were used prior to any plan modifications?			
• Are less intrusive methods of meeting the need that were tried initially documented?			
• Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?			

Provider Self-Assessment Tools for Residential and Non-Residential Settings

CMS HCBS Community Rule: Assessment and Planning Tool for Settings

Non-Residential Settings

In March, CMS finalized its HCBS Community Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services Waiver Program (HCBS). The intent of the rule is to assure that individuals receiving long-term services and supports through HCBS programs have full access to the benefits of community living and the opportunity to receive services in integrated settings. The accompanying summary of the CMS Community Rule provides more information and further context for the Community Rule.

http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Rhode Island provides Medicaid-funded HCBS under the authority of an 1115 Waiver. While the final rule does not apply to states operating their HCBS under an 1115 Waiver, we support the intent of the rule and therefore will seek to comply with the requirements.

In order to meet the requirements of the new rule, states will need to develop a Transition Plan, "detailing any actions necessary to achieve or document compliance with setting requirements". States will have up to 5 years to implement their stated plan.

An integral component of the transition plan is a self-assessment/plan of existing settings to determine how closely they currently comply or don't comply with the Community Rule and if they don't comply, what is needed in terms of a plan, over the next 5 years, to come into compliance.

Attached is a tool to assist you in conducting the non-residential setting self-assessment. Please answer each question (bold or bullet) with either "Yes" or "No" by checking the appropriate box. To help you answer the bold question, we have provided sub-questions (in a bulleted list) underneath each bold question. These bulleted questions are additional questions for you to answer and will help guide you to answer "Yes" or "No" to the bold question. Answer each question with a "Yes" or "No".

Given the nature of your specific setting and given CMS guidance around settings that may not immediately comply with all aspects of the Community Rule, it may be more challenging to meet these requirements and be able to answer "Yes" to all bold and all bulleted questions. We assume, however, that you do aspire to achieve the outcomes articulated in the HCBS Community Rule over the next 5 years. So please be critical in your answers. We are not expecting you to answer "Yes" to every question.

Please complete and return then enclosed assessment by March 18, 2015.

Thank you for assistance!

To ensure that all community settings in which individuals receive a Medicaid Home and Community Based Service (HCBS) meet the new CMS regulatory requirements, providers have been asked to assess their current settings and practices against the new requirements. CMS exploratory questions have been provided below to guide this assessment.

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
1. **Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?**	Yes	No	Comments:
• Is the setting in a public or privately-owned facility that provides inpatient treatment?			
• Is the setting on the grounds of, or immediately adjacent to a publicly-funded healthcare institution?			
• Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as the individual chooses?			
• Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?			
• Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?			
• Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer "No" to this question.)			
• Is the setting in the community among other private residences, retail businesses?			
2. **Does the setting provide opportunities to engage in community life?**	Yes	No	Comments:
• Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?			
• Are individuals aware of or do they have access to materials to become aware of activities occurring outside of the setting?			
3. **Is the individual employed or does the individual attend day services outside of the setting?**	Yes	No	

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Do individuals work in an integrated community setting?			Comments:
• If individuals are of working age, is there activity with the individual to pursue work as an option?			
• If work is not a goal, do individuals participate in meaningful day activities outside the setting?			
4. **Does the setting provide opportunities to control personal resources?**	Yes	No	Comments:
• Do individuals have a checking or savings account or other means to control funds?			
• Do individuals have access to their funds?			
5. **Does the setting ensure freedom from coercion and restraint?**	Yes	No	Comments:
• Is information about filing a complaint posted in an obvious location and in an understandable format?			
• Are individual's comfortable discussing concerns?			
• Do individuals know how to make a complaint?			
6. **Does the setting ensure dignity, and respect?**	Yes	No	Comments:
• Are individuals who need assistance with grooming, groomed as they desire?			
• Are individuals dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?			
• Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'?			
• Is informal (written and oral) communication conducted in a language individuals understand?			
• Does staff talk to other staff about individual(s) with dignity and respect?			

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Does staff ensure that conversations about individuals occur privately and not within earshot of other persons in the setting?			
7. **Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?**	Yes	No	Comments:
• Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?			
• Can individuals and chosen representatives explain the process to develop and update their plan?			
• Were individuals present during their last planning meeting?			
• Did/does the planning meeting occur at a time and place convenient for individuals to attend?			
8. **Does the setting facilitate choices regarding services and supports and who provides them?**	Yes	No	
• Are individuals given a choice of available options regarding where to receive services?			
• Are individuals given opportunities to visit other settings?			
• Does staff ask individuals about their needs and preferences?			
• Are individuals aware of how to make a service request?			
• Can an individual choose the provider or staff who render the services s/he receives?			
9. **Does the setting optimize interaction, autonomy and independence in making life choices?**	Yes	No	Comments:
• Are individuals given information to assist them to make informed decisions?			
• Are individuals learning skills to enable them to maximize independence?			
9. **Is health information about individuals kept private?**	Yes	No	Comments:
10. **Is the setting physically accessible to individuals?**	Yes	No	Comments:

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.?			
• Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the settings?			
• Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?			
• Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?			
• Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?			
• Does documentation note if positive interventions and supports were used prior to any plan modifications?			
• Are less intrusive methods of meeting the need that were tried initially documented?			
11. **Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?**	Yes	No	Comments:

Attachment A

Core and Preventive Home and Community-based Service Definitions

CORE SERVICES

Homemaker: Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home. Homemakers shall meet such standards of education and training as are established by the State for the provision of these activities.

Environmental Modifications (Home Accessibility Adaptations): Those physical adaptations to the home of the member or the member's family as required by the member's service plan, that are necessary to ensure the health, welfare, and safety of the member or that enable the member to attain or retain capability for independence or self-care in the home and to avoid institutionalization, and are not covered or available under any other funding source. A completed home assessment by a specially trained and certified rehabilitation professional is also required. Such adaptations may include the installation of modular ramps, grab-bars, vertical platform lifts and interior stair lifts. Excluded are those adaptations that are of general utility, and are not of direct medical or remedial benefit to the member. Excluded are any re-modeling, construction, or structural changes to the home, i.e. (changes in load bearing walls or structures) that would require a structural engineer, architect and/or certification by a building inspector. Adaptations that add to the total square footage of the home are excluded from this benefit. All adaptations shall be provided in accordance with applicable state or local building codes and prior approved on an individual basis by the EOHHS Office of Long Term Services and Supports is required. Items should be of a nature that they are transferable if a member moves from his/her place of residence.

Special Medical Equipment: Specialized Medical Equipment and supplies to include Ceiling or Wall Mounted Patient Lift, Track System, tub slider system, rolling shower chair and/or Automatic Door Opener, which enable a member to increase his/her ability to perform activities of daily living, including such other durable and non-durable medical equipment not available under the Medicaid-funded primary and acute care system that is necessary to address participant functional limitations. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the Medicaid-funded primary and acute care system and exclude those items that are not of direct medical or remedial benefit to the member. Medical equipment funded under the primary and acute care system includes items such as wheel chairs, prosthetics, and orthotics. These services that were provided under the authority of the Rhode Island State Plan prior to the 1115 Waiver approval. These items are still available under the 11115 Waiver and are described on the EOHHS website. All items shall meet applicable standards of manufacture, design and installation. Provision of Special Medical Equipment requires prior approval on an individual basis by the EOHHS, Office of Long Term Services and Supports and a home assessment completed by a specially trained and certified rehabilitation professional. Items should be of a nature that they are transferable if a member moves from his/her place of residence. Excluded are any re-modeling, construction, or structural changes to

the home, (i.e. changes in load bearing walls or structures) that would require a structural engineer, architect and/or certification by a building inspector.

Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances, such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g., reachers), and standing poles to improve home accessibility adaption, health, or safety.

Meals on Wheels (Home Delivered Meals): The delivery of hot meals and shelf staples to the waiver recipient's residence. Meals are available to an individual who is unable to care for his/her nutritional needs because of a functional dependency/disability and who requires this assistance to live in the community. Meals provided under this service will not constitute a full daily nutritional requirement. Meals must provide a minimum of one-third of the current recommended dietary allowance. Provision of home delivered meals will result in less assistance being authorized for meal preparation for individual participants, if applicable.

Personal Emergency Response (PERS): PERS is an electronic device that enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the individual's phone and programmed to signal a response center once a "help" button is activated. Trained professionals staff the response center, as specified by Center for Adult Health contract standards. This service includes coverage for installation and a monthly service fee. Providers are responsible to insure the upkeep and maintenance of the devices/systems.

LPN Services (Skilled Nursing): Licensed Practical Nurse services provided under the supervision of a Registered Nurse. Licensed Practical Nurse Services are available to participants who require interventions beyond the scope of Certified Nursing Assistant (C.N.A.) duties. LPN services are provided in accordance with the Nurse Practice Act under the supervision of a registered nurse. This service is aimed at individuals who have achieved a measure of medical stability despite the need for chronic care nursing interventions. Individuals are assessed by a Registered Nurse (RN) in the EOHHS, Office of Community Programs.

Community Transition Services: Community Transition Services are non-recurring set-up expenses for individuals who are transitioning from an institutional or another provider-operated living arrangement to a living arrangement in a private residence where the individual is directly responsible for his or her own living expenses. Allowable expenses are those necessary to enable an individual to establish a basic household; these expenses do not constitute room and board and may include: security deposits that are required to obtain a lease on an apartment or home, essential household furnishings, and moving expense, set-up fees or deposits for utility or service access, services necessary for the individual's health and safety and activities to assess need, arrange for, and procure needed resources. Community Transition Services are furnished only to the extent that the services are reasonable and necessary as determined through the service plan development process, the services are clearly identified in the service plan, and the individual is unable to meet such expense or the services cannot be obtained from other sources.

The services do not include ongoing shelter expenses, food, regular utility charges, household appliances or items intended for recreational purposes.

Residential Supports: Assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the preparation of food, and the social and adaptive skills necessary to enable the individual to reside in his/her own home and a non-institutional setting. Payments for residential habilitation are not made for room and board, the cost of facility maintenance (where applicable), or upkeep and improvement.

Day Supports: Assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills. Day supports focus on enabling the individual to attain or maintain his/her maximum functioning level, and are coordinated with any other services identified in the person's individual plan.

Supported Employment: Includes activities needed to sustain paid work by individuals receiving waiver services, including supervision, transportation and training. When supported employment services are provided at a work site in which persons without disabilities are employed, payment will be made only for the adaptations, supervision, and training required by an individual receiving waiver services as a result of his/her disabilities, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

Supported Living Arrangements: Personal care and services, homemaker, chore, attendant care, companion services, and medication oversight (to the extent permitted under state law) provided in a private home by a principal care provider who lives in the home. Supported Living Arrangements are furnished to adults who receive these services in conjunction with residing in the home. Separate payment will not be made for homemaker or chore services furnished to an individual receiving Supported Living Arrangements, since these services are integral to and inherent in the provision of adult foster care services.

Private Duty Nursing: Individual and continuous care (in contrast to part time or intermittent care) provided by licensed nurses within the scope of state law and as identified in the Individual Service Plan (ISP). These services are provided to an individual at home and require an assessment to be completed by a Registered Nurse (RN) from the Office of Community Programs.

Supports for Consumer Direction (Supports Facilitation): Focuses on empowering participants to define and direct their own personal assistance needs and services; guides and supports, rather than directs and manages, the participant through the service planning and delivery process. The Facilitator counsels, facilitates, and assists in development of an ISP which includes both paid and unpaid services and supports designed to allow the participant to live in the home and participate in the community. A back-up plan is also developed to assure that the needed assistance will be provided in the event that regular services identified in the Individual Service Plan are temporarily unavailable.

Participant Directed Goods and Services: Participant Directed Goods and Services are services, equipment, or supplies not otherwise provided through this waiver or through the Medicaid state plan that address an identified need, that are in the approved ISP (including improving and maintaining the individual's opportunities for full membership in the community), and that meet the following requirements: the item or service would decrease the need for other Medicaid services; AND/OR the item or service would promote inclusion in the community; AND/OR the item or service would increase the individual's ability to perform ADLs or IADLs; AND/OR the item or service would increase the person's safety in the home environment; AND alternative funding sources are not available. Individual Goods and Services are purchased from the individual's self-directed budget through the fiscal intermediary when approved as part of the ISP. Examples include a laundry service for a person unable to launder and fold clothes or a microwave for a person unable to use a stove due to his/her disability. This will not include any good/service that would be restrictive to the individual or strictly experimental in nature.

Case Management: Services that assist participants in gaining access to needed waiver and other state plan services, as well as needed medical, social, educational, and other services, regardless of the funding source for the services to which access is gained. Case managers are responsible for ongoing monitoring of the provision of services included in the individual's plan of care. Case managers initiate and oversee the process of assessment and reassessment of the individual's level of care and review of plans of care on an annual basis and when there are significant changes in client circumstances.

Senior Companion (Adult Companion Services): Non-medical care, supervision, and socialization provided to a functionally impaired adult. Companions may assist or supervise the participant with such tasks as meal preparation, laundry, and shopping. The provision of companion services does not entail hands-on nursing care. Providers may also perform light housekeeping tasks, which are incidental to the care and supervision of the participant. This service is provided in accordance with a therapeutic goal in the service plan of care.

Assisted Living: Personal care and services, homemaker, chore, attendant care, companion services, medication oversight (to the extent permitted under state law), therapeutic social and recreational programming, provided in a home-like environment in a licensed community care facility in conjunction with residing in the facility. This service includes 24-hour on-site response staff to meet scheduled or unpredictable needs in a way that promotes maximum dignity and independence, and to provide supervision, safety and security. Other individuals or agencies may also furnish care directly, or under arrangement with the community care facility; but the care provided by these other entities supplements that provided by the community care facility and does not supplant it.

Personalized care is furnished to an individual who resides in his/her own living units (which may include dually occupied units when both occupants consent to the arrangement) which may or may not include kitchenette and/or living rooms, and which contain bedrooms and toilet facilities. The consumer has a right to privacy. Living units may be locked at the discretion of the consumer, except when a physician or mental health professional has certified in writing that the consumer is sufficiently cognitively impaired as to be a danger to self or others if given the

opportunity to lock the door. (This requirement does not apply where it conflicts with fire code.) Each living unit is separate and distinct from each other unit. The facility must have a central dining room, living room, or parlor, and common activity center(s) (which may also serve as living room or dining room). The consumer retains the right to assume risk, tempered only by the individual's ability to assume responsibility for that risk. Care must be furnished in a way which fosters the independence of each individual to facilitate aging in place. Routines of care provision and service delivery must be consumer-driven to the maximum extent possible, and must treat each person with dignity and respect. Costs of room and board are excluded from payments for assisted living services.

Personal Care Services: Personal Care Services provide direct support in the home or community to an individual in performing Activities of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to disability. Personal Care Services may be provided by:

1. A Certified Nursing Assistant which is employed under a State licensed home care/home health agency and meets such standards of education and training as are established by the State for the provision of these activities.

2. A Personal Care Attendant via Employer Authority under the Self Direction option.

Respite: Respite can be defined as a service provided to a participant unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons who normally provide care for the participant. Respite services will be recommended and approved by EOHHS, Office of Long Term Services and Supports.

PREVENTIVE SERVICES:

Homemaker: Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him/herself or others in the home. Homemakers shall meet such standards of education and training as are established by the State for the provision of these activities.

Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances, such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g., reachers), and standing poles to improve home accessibility adaption, health, or safety.

Physical Therapy Evaluation and Services: Physical therapy evaluation for home accessibility appliances or devices by an individual with a state-approved licensing or certification. Preventive physical therapy services are available prior to surgery if evidence-based practice has demonstrated that the therapy will enhance recovery or reduce rehabilitation time.

Respite Services: Temporary caregiving services given to an individual unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care for the participant. Respite services will be recommended and approved by EOHHS, Office of Long Term Services and Supports.

Personal Care Services: Personal Care Services provide direct hands on support in the home or community to an individual in performing Activity of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to disability. Personal Care Services may be provided to an individual by:

1. A Certified Nursing Assistant which is employed under a State licensed home care agency and meets such standards of education and training as are established by the State for the provision of these activities.

HABILITATIVE SERVICES:

Residential habilitation is individually tailored supports that assist with the acquisition, retention, or improvement in skills related to living in the community. These supports include adaptive skill development, assistance with activities of daily living, community inclusion, transportation, adult educational supports, and social and leisure skill development, that assist the participant to reside in the most integrated setting appropriate to his/her needs. Residential habilitation also includes personal care and protective oversight and supervision.

Payment is not to be made for the cost of room and board, including the cost of building maintenance, upkeep and improvement.

Day habilitation is provision of regularly scheduled activities in a non-residential setting, separate from the participant'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 community living.

Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice. Services are furnished consistent with the participant's person-centered plan. Meals provided as part of these services shall not constitute a "full nutritional regimen" (3 meals per day).

Day habilitation services focus on enabling the participant to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the individual's person-centered services and supports plan, such as physical, occupational, or speech therapy.

Attachment B

Official Transcripts of Public Meetings

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

* * * * * * * * * * * * * * * * * PUBLIC HEARING IN RE:

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TRANSITION PLAN TO IMPLEMENT THE
SETTINGS REQUIREMENT FOR HOME
AND COMMUNITY-BASED SERVICES CMS
FINAL RULE JANUARY, 2014

ORIGINAL

* * * * * * * * * * * * * * * * * *

METRO CENTER BOULEVARD
SUITE 203
WARWICK, RI 02888
APRIL 30, 2015
9:00 A.M.

BEFORE: THOMAS MARTIN, HEARING OFFICER

M.E. HALL COURT REPORTING

108 WALNUT STREET

WARWICK, RI 02888

(401) 461-3331

E X H I B I T S

(COMMENCED AT 9:06 A.M.)

THE HEARING OFFICER:
So, welcome. We are here today regarding a public hearing concerning Rhode Island's Transition Plan related to the Centers for Medicare and Medicaid Services, Home and Community-based Services Rule.

This hearing is being conducted under the provisions of Chapter 40-6, 40-8, 42-7.2 and 42-35 of the Rhode Island General Laws, as amended. Today is Thursday, April 30, 2015. My name is Thomas Martin, and I will be the Hearing Officer for today's proceeding.

Before we start, and so as not to interrupt the proceedings, I would like to ask that those of you with cell phones, pagers and watch alarms to turn them off at this time.

The purpose of the hearing today to comment on the proposed Transition Plan. This hearing is intended for your participation only and is not intended as a means of providing a forum for discussing, debating, arguing, or otherwise having any dialogue on the record with the Members of The Executive Office of Health and Human Services.

If you care to speak, the procedure we will use is as follows:

One, register at the side of the room.

Two, speakers will be taken in order of registration.

Three, five minutes will be allowed for your presentation, unless the lack of speakers allows for additional time.

Four, when you are called:

A) come to the podium, to the front of room.

B) identify yourself by name and affiliation, if there is any.

C) make your presentation.

D) if you have a written copy of your statement, we would appreciate having that for the record.

After the time has elapsed for submission of written commentary, the Executive Office of Health and Human Services has three options under State

law.

The first option is to file as is with the Federal Centers for Medicare and Medicaid Services, known as CMS.

The second option is to file with minor changes, examples, spelling and punctuation. The third option, make major changes in what you see before you today, which would necessitate a new public hearing.

If there aren't any questions about how the public hearing will be conducted, at this time, for the record, we will have a presentation of the exhibits that will go into the record.

Exhibit 1 is a Notice of Public Comment signed by Elizabeth H. Roberts, Secretary of the Executive Office of Health and Human Services on March 31, 2015.

(EXHIBIT 1, NOTICE OF PUBLIC COMMENT, MARKED)
THE HEARING OFFICER:

The second exhibit is the confirmation of placement as a legal notice in the Providence Journal on April 1, 2015, from Mary Beth Garlick of the Providence Journal.

That's Exhibit 2. (EXHIBIT 2, LEGAL NOTICE, MARKED)
THE HEARING OFFICER:

Exhibit 3 is advanced Notice of Public Hearing sent via electronic mail to the Rhode Island Executive Office of Health and Human services, interested parties list, on April 14, 2015.

(EXHIBIT 3, NOTICE OF PUBLIC HEARING TO INTERESTED PARTIES, MARKED)

THE HEARING OFFICER:

Exhibit 4 is a copy of Chapters 40-6, 40-8 and 42-7.2 Of the Rhode Island General Laws, as amended.

(EXHIBIT 4, CHAPTERS 40-6, 40-8 AND 42-7.2, MARKED)
THE HEARING OFFICER:

Exhibit 5 is a copy of the proposed Transition Plan to Implement the Settings Requirements for Home and Community-based Services CMS Final Rule, January 2014.

(EXHIBIT 5, PROPOSED TRANSITION PLAN, MARKED)
THE HEARING OFFICER:

According to the sign-in sheet, we don't have anybody who would like to speak. I'm asking if anybody does want to speak at this time; the opportunity does present itself?

(PAUSE)

THE HEARING OFFICER:
Is there any persons here present who would like to make a statement concerning the proposed Transition Plan?

(PAUSE)

THE HEARING OFFICER:
The submission of any written commentary on the proposed Transition Plan will be accepted until the close of business on Friday, March 29, 2015 – May 29, 2015.

If there are no other comments, thank you for your attendance, and the hearing is now closed.

(HEARING CLOSED AT 9:12 A.M.)

C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript of my notes taken at the above-entitled public hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May, 2015.

Mary Ellen Hall

_____
MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

DATE: April 30, 2015

IN RE: Public hearing in re: Transition Plan

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

* * * * * * * * * * * * * * * * * *

PUBLIC HEARING IN RE:

TRANSITION PLAN FOR HOME AND
COMMUNITY BASED SERVICES FOR
THE CENTER OF MEDICARE AND MEDICAID
SERVICES, CMS, FINAL
RULE JANUARY, 2014

ORIGINAL

* * * * * * * * * * * * * * * * * *

DAVINCI CENTER
470 CHARLES STREET
PROVIDENCE, RHODE ISLAND
MAY 5, 2015
4:00 P.M.

BEFORE: THOMAS MARTIN, HEARING OFFICER

M.E. HALL COURT REPORTING
108 WALNUT STREET
WARWICK, RI 02888

(401) 461-3331

E X H I B I T S

(COMMENCED AT 4:16 P.M.)

THE HEARING OFFICER: Welcome.

We are here today regarding a public hearing concerning Rhode Island's Transition Plan related to the Centers for Medicare and Medicaid Services, Home Community-based Services Rule. The hearing is being conducted under the provisions of Chapters 40-6, 40-8, 42-7.2, 42-35 and of the Rhode Island General Laws, as amended.

THE HEARING OFFICER:

Today is Tuesday, May 5, 2015. My name is Thomas Martin, and I will be the Hearing Officer for today's proceeding.

Before we start, and so as not to interrupt the proceedings, I would like to ask that those of you with cell phones, pagers, and watch alarms to turn them off at this time. The purpose of the hearing today is to afford interested parties an opportunity to comment on the proposed Transition Plan.

This hearing is intended for your participation only. It is not intended as a means of providing a forum for discussing, debating, arguing or otherwise having any dialogue on the record with Members of the Executive Office of Health and Human Services. If you care to speak, the procedure we will use is as follows:

One, register at the side of the room.

Two, speakers will be taken in order of registration.

Three, five minutes will be allowed for your presentation, unless the lack of speakers allows for additional time.

Four, when you are called, come to the desk at the front of the room. B, identify yourself by name and affiliation, if any. C, make your presentation. D, if you have a written copy of your statement, we would appreciate having that for the record.

After the time has elapsed for submission of written commentary, the Executive Office of Health and Human Services has three options under State law. First option, file as is with the Federal Centers for Medicare and Medicaid Services, CMS.

Second option, file with minor changes. Example, spelling, punctuation. Third option, make major changes in what you see before you today, which would necessitate a new public hearing.

Are there any questions on how the public hearing will be conducted today?

(PAUSE)

THE HEARING OFFICER:

If not, at this time, for the record, we will have a presentation of the exhibits.

Exhibit 1 is a Notice of Public Comment posted on the Executive Office of Health and Human Services web site on April 15, 16 2015.

(EXHIBIT 1, NOTICE OF PUBLIC COMMENT, MARKED)

THE HEARING OFFICER:

Exhibit 2 is an electronic confirmation of posting on The Rhode Island Secretary of State's web site on April 30, 2015, under the provisions of Rhode Island General Laws 42-46.

(EXHIBIT 2, ELECTRONIC AD, MARKED)

THE HEARING OFFICER:

Exhibit 3, advanced notice of public hearing sent via electronic mail from the Rhode Island Executive Office of Health and Human Services, Interested Parties List, on April 14, 2015.

EXHIBIT 3, NOTICE OF PUBLIC HEARING SENT TO INTERESTED PARTIES LIST, MARKED)

THE HEARING OFFICER:
A copy of Chapters -- Exhibit 4, a copy of Chapters 40-6, 40-8 and 42-72 of the Rhode Island General Laws, as amended.

(EXHIBIT 4, CHAPTERS 40-6, 40-8 AND 42-72 OF THE R.I. GENERAL LAWS, AS AMENDED, MARKED)

THE HEARING OFFICER:
Exhibit 5, a copy of the proposed Transition Plan to Implement the Settings Requirement for Home Community-based Services, CMS, Final Rule, January, 2014.

(EXHIBIT 5, PROPOSED TRANSITION PLAN)

THE HEARING OFFICER: At this time, I would like to call the first speaker. Jennifer Crosby. MS. CROSBY: I'm not going – my name is Jennifer Crosby. I work with Senior Link, the parent organization of Care Givers Homes, which is a supportive living arrangement provider here in Rhode Island. I work in government relations for Senior Link and address and access other states that are also providing this service.

Care Givers Homes, we operate supportive living-like arrangement services in five other states, Massachusetts Connecticut, Ohio, Indiana, and newest Louisiana and we will be operating in Texas by the end of calendar year 2015. My comments today have been submitted for the record.

My speaking comments are in regard to the five states, the five other states in which we operate, excluding Rhode Island. We have been, supportive living services have been deemed compliant with the HCBS Final Rule, and Rhode Island is the one state thus far to require providers' self-assessments of shared living or supportive living arrangement-like services. While the service here in Rhode Island is fully implemented and operational and has been since 2010, it still remains largely inaccessible to many Rhode Islanders. Some of that is due to the lengthy enrollment process. Consumers on average take about three to nine months to enroll in the program or some withdraw their application based

on the length of time it requires to enroll. Other states that we operate in – Rhode Island also has the most restrictive requirements allowing only one consumer to be served at a time. So, families where daughters and sons are caring for both mom and dad are disallowed to participate in the program and receive care-giver support through care teams,

RN's and managers. So, as a fully compliant home and community-based service

through this HGBS Final Rule, supportive living arrangements provide a 24-hour benefit at roughly half the cost of a nursing facility stay and is a useful tool in all the states in which we operate to rebalance their long-term care expenditures. My comments, my spoken comments here today are to urge the State to identify efficiencies and programmatic changes to allow more Rhode Islanders to access right at home services which are the supportive living arrangement services authorized under the 1115 waiver. Thank you.

THE HEARING OFFICER: Thank you.

Are there any other persons here present who would like to make a statement concerning the proposed Transition Plan?

(PAUSE)

THE HEARING OFFICER: If not, this submission of any written commentary and proposed Transition Plan will be accepted until the close of business on Friday, May 29, 2015.

If there's not any other comments, we thank you for your attendance. We will still stay around a little bit longer for anybody else that comes in for comments. Thank you.

(OFF THE RECORD FROM 4:26 to 5:58 P.M.)

THE HEARING OFFICER: This hearing is officially closed. Thank you.

(HEARING CLOSED AT 5:58 P.M.)

* * * * * * * * * * * * * *

C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript of my notes taken at the above-entitled public hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May, 2015.

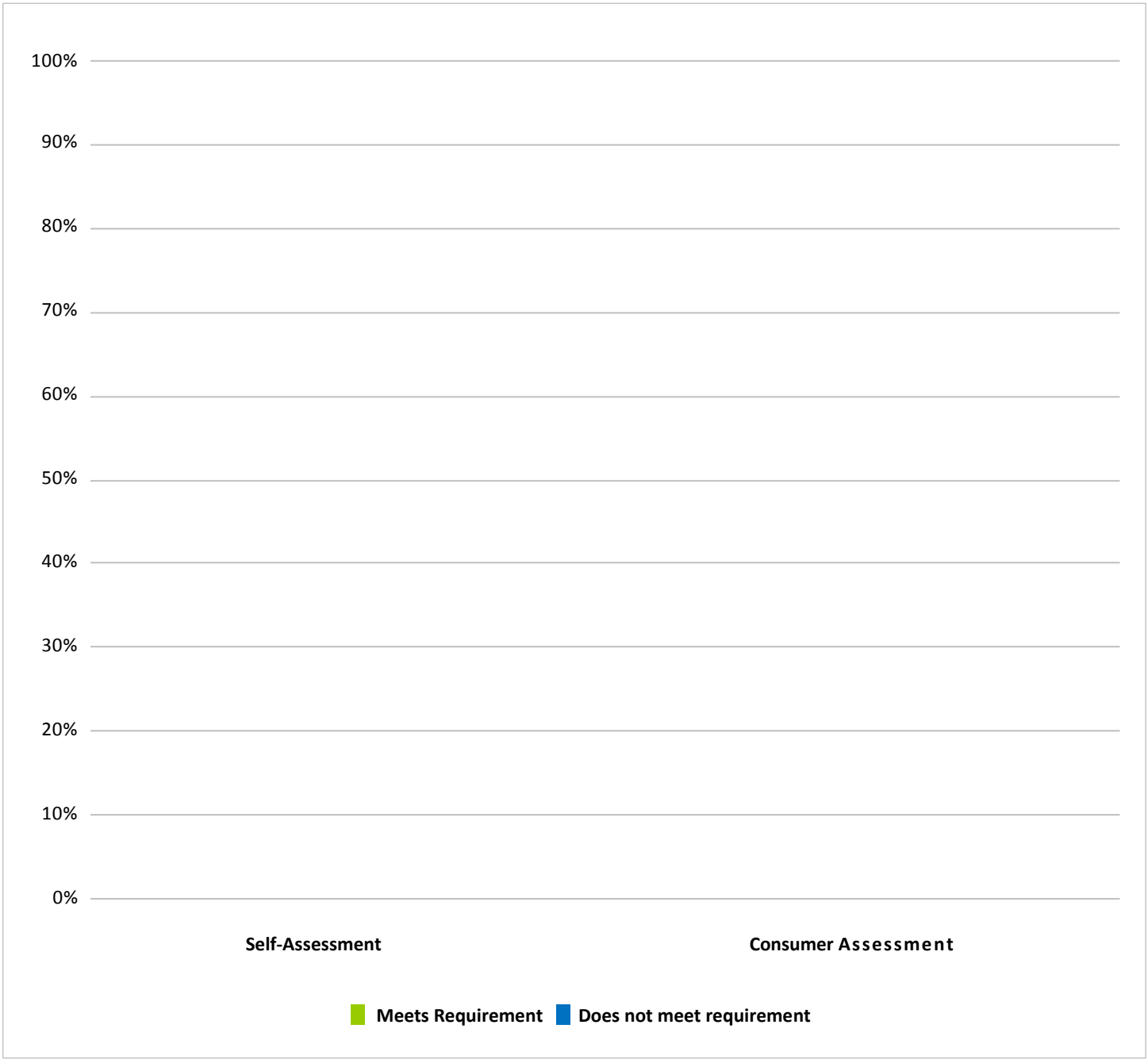
Mary Ellen Hall

_____
MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

DATE: MAY 3, 2015

IN RE: PUBLIC HEARING IN RE: TRANSITION PLAN

Accessibility

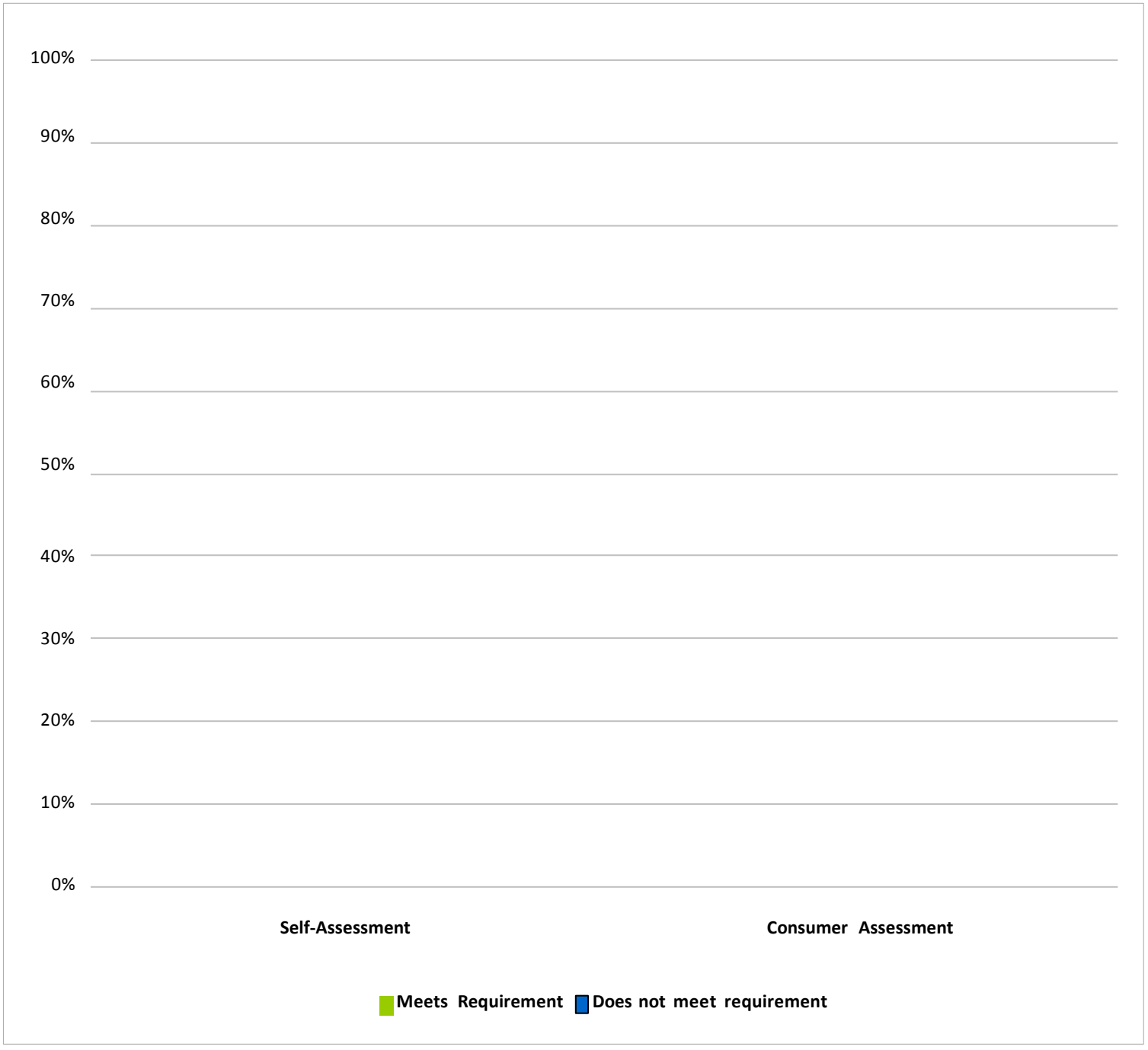


Total Settings Assessed: 0

Total Consumer Surveys: 0

All settings compliant

Autonomy



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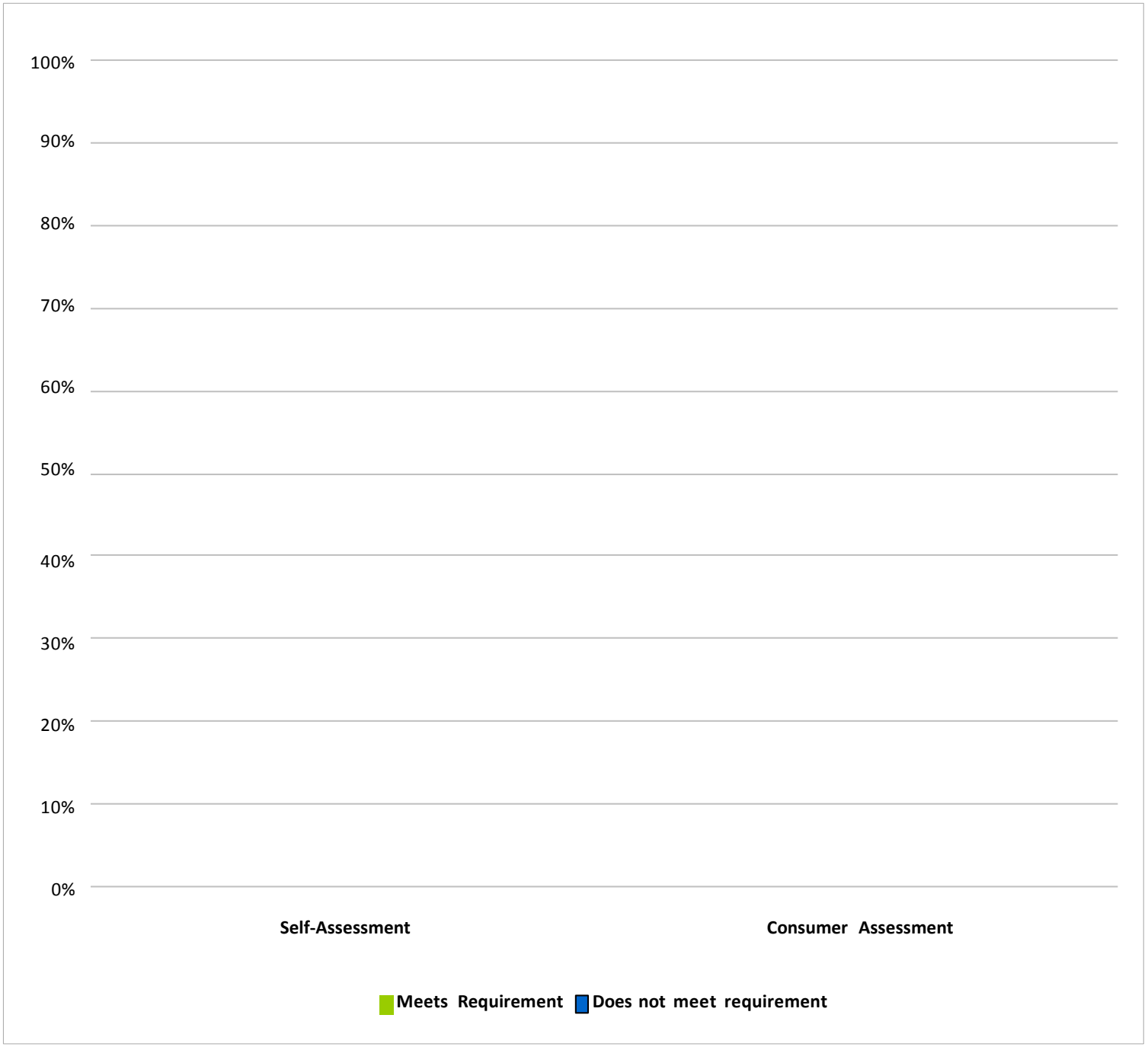
All settings compliant

Choices



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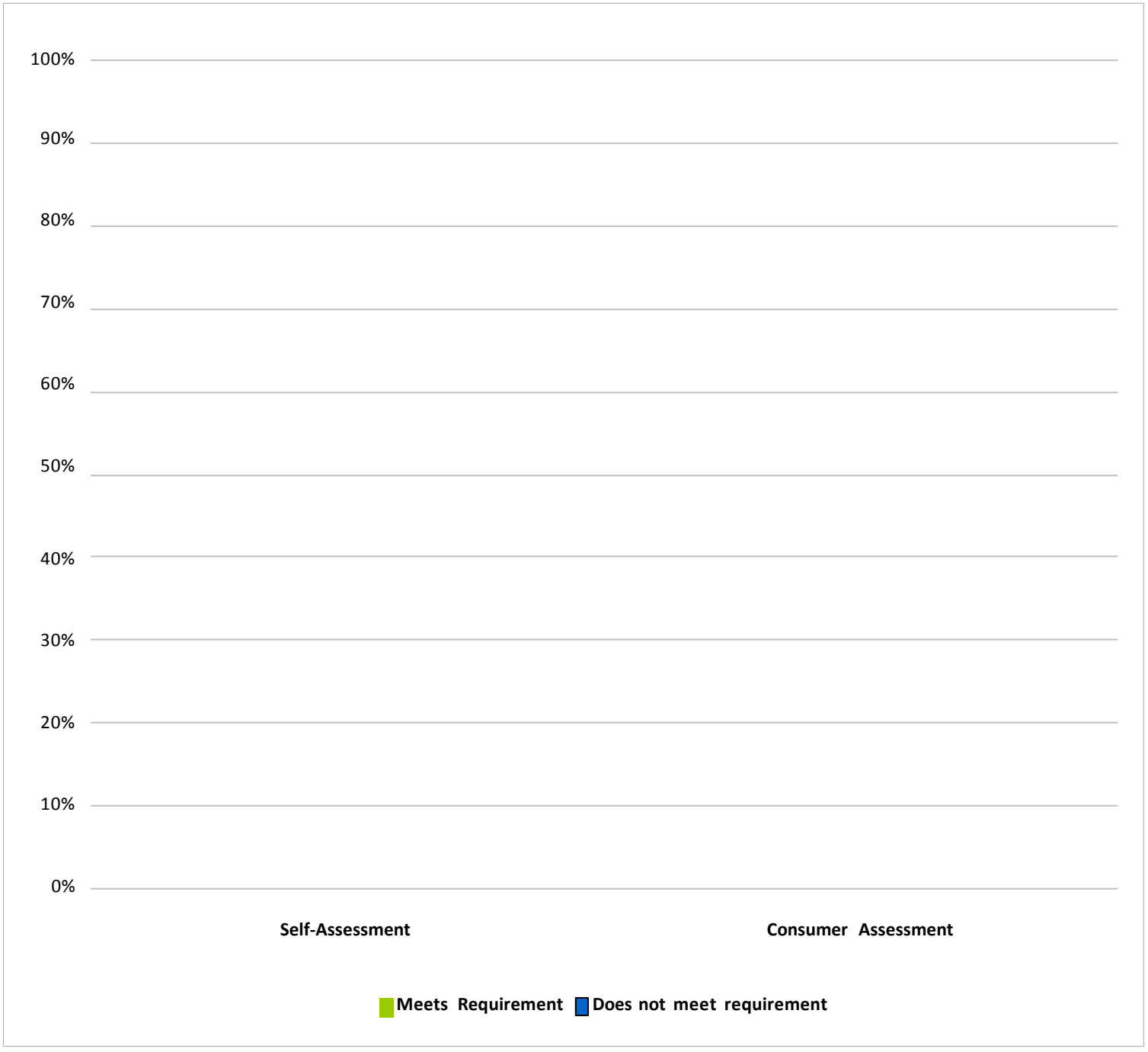
All settings compliant

Integration



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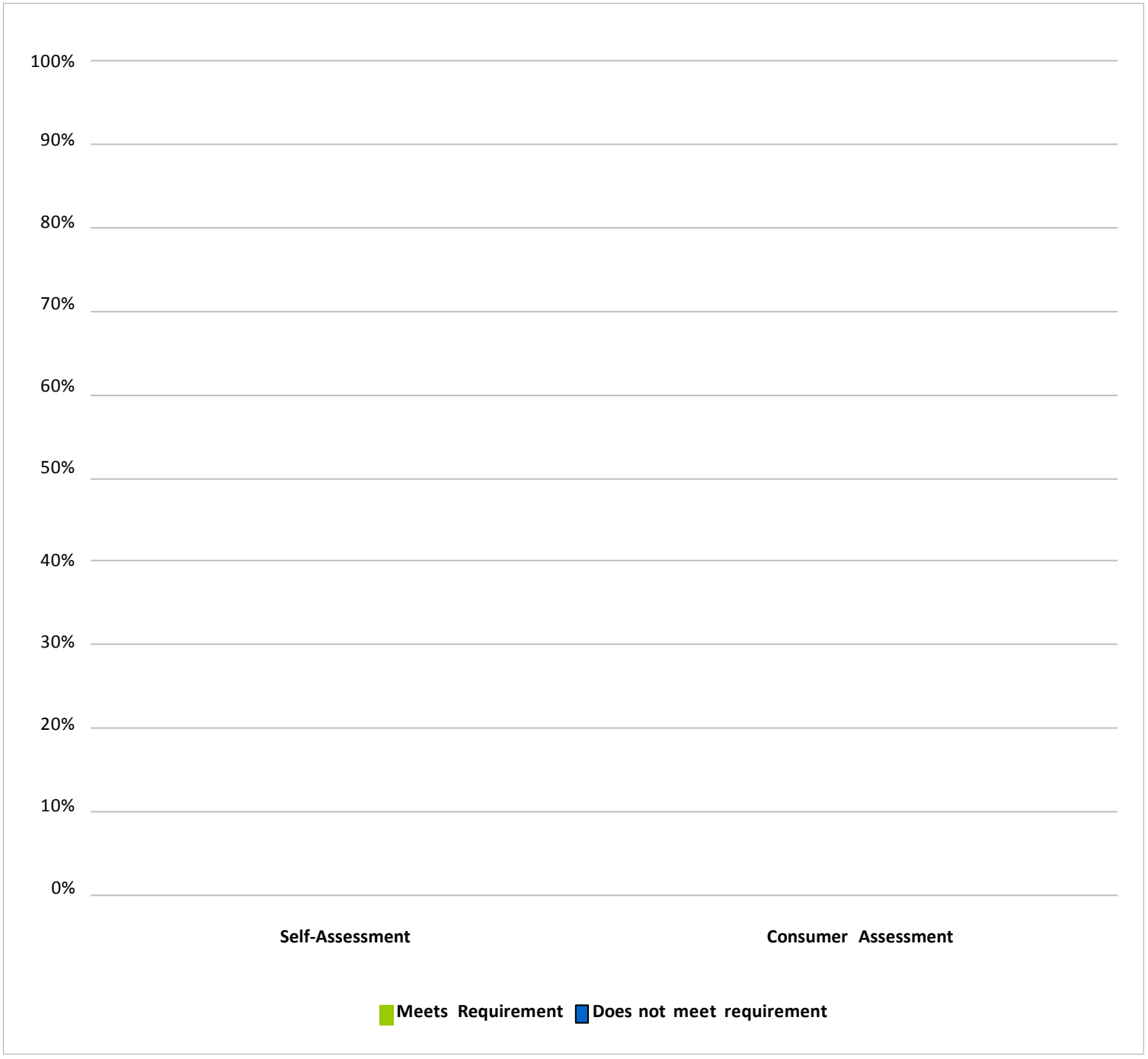
Total Consumer Surveys: 0

All settings compliant

Lease



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All settings compliant

Total Consumer Surveys: 0

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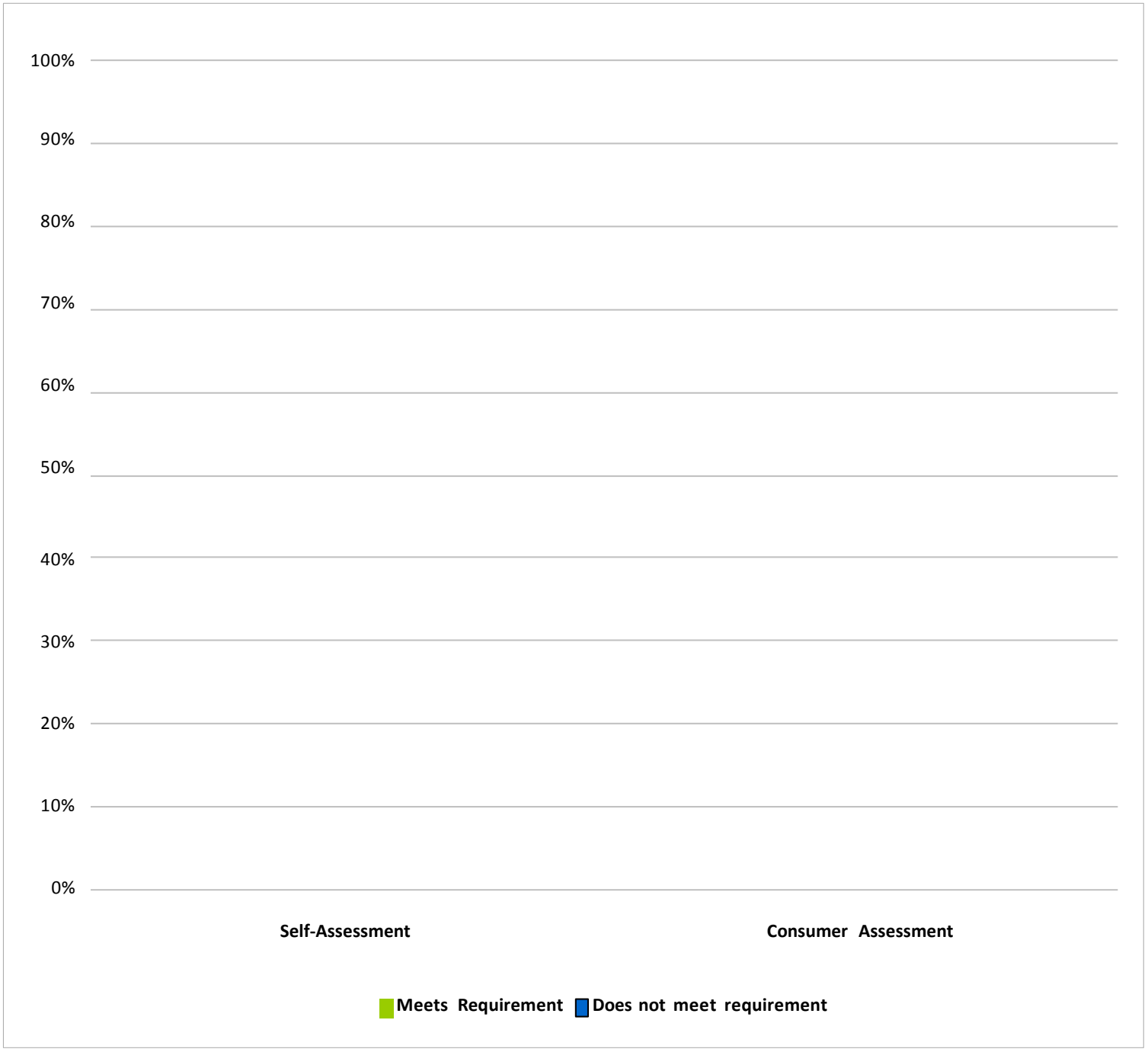

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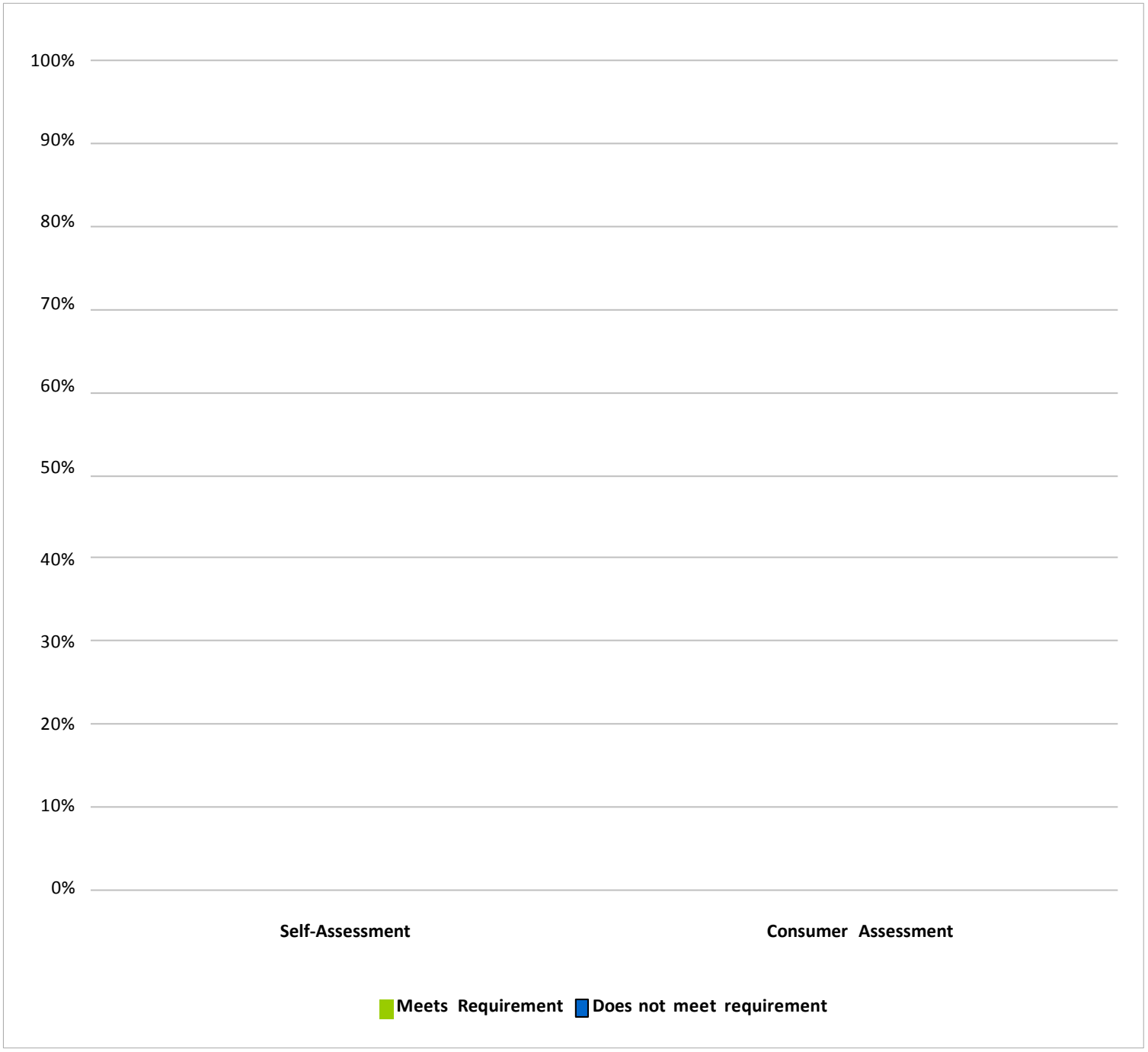
All settings compliant

Total Consumer Surveys: 0

Locks



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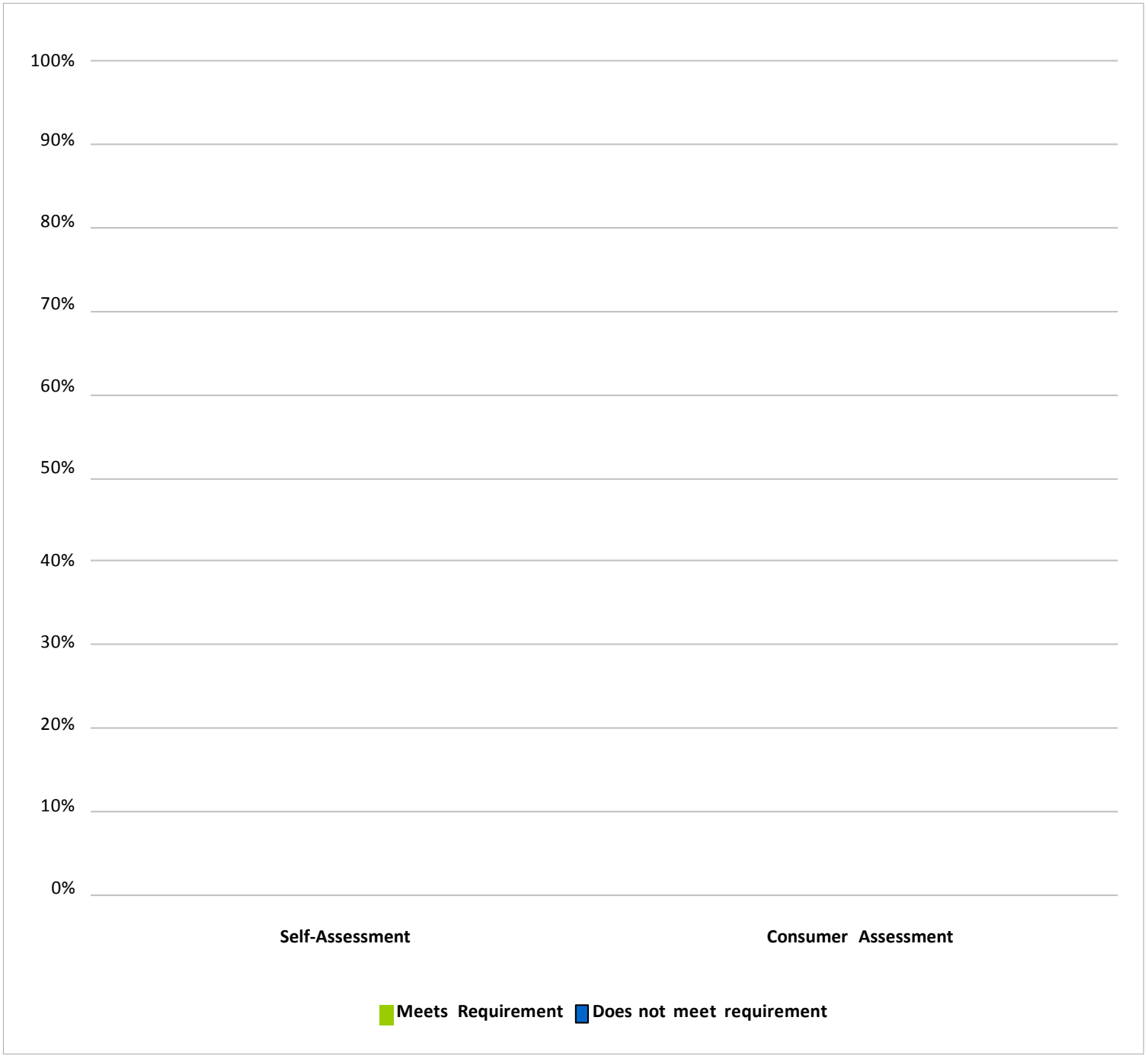
Total Consumer Surveys: 0

Modifications



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All settings compliant

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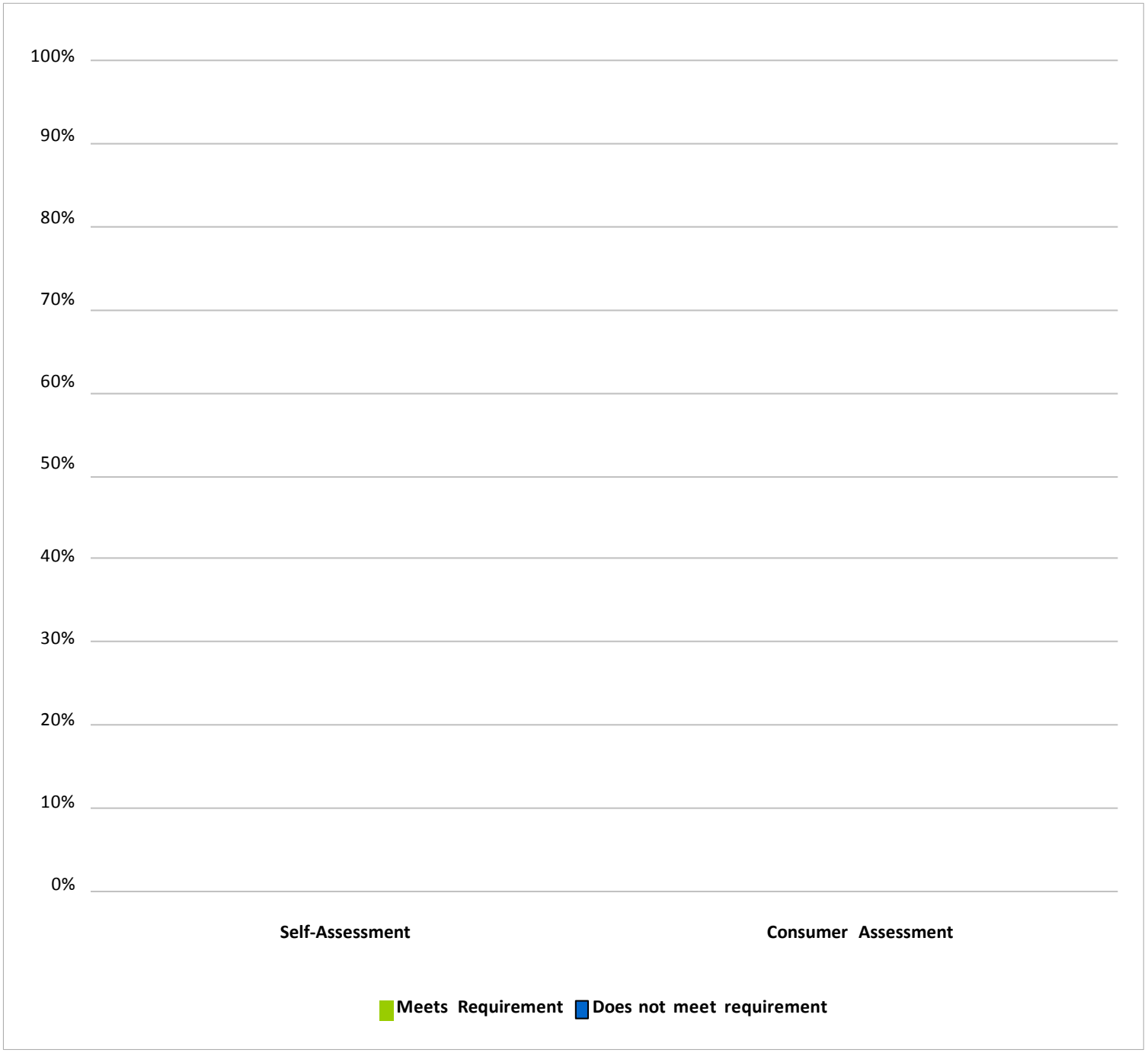

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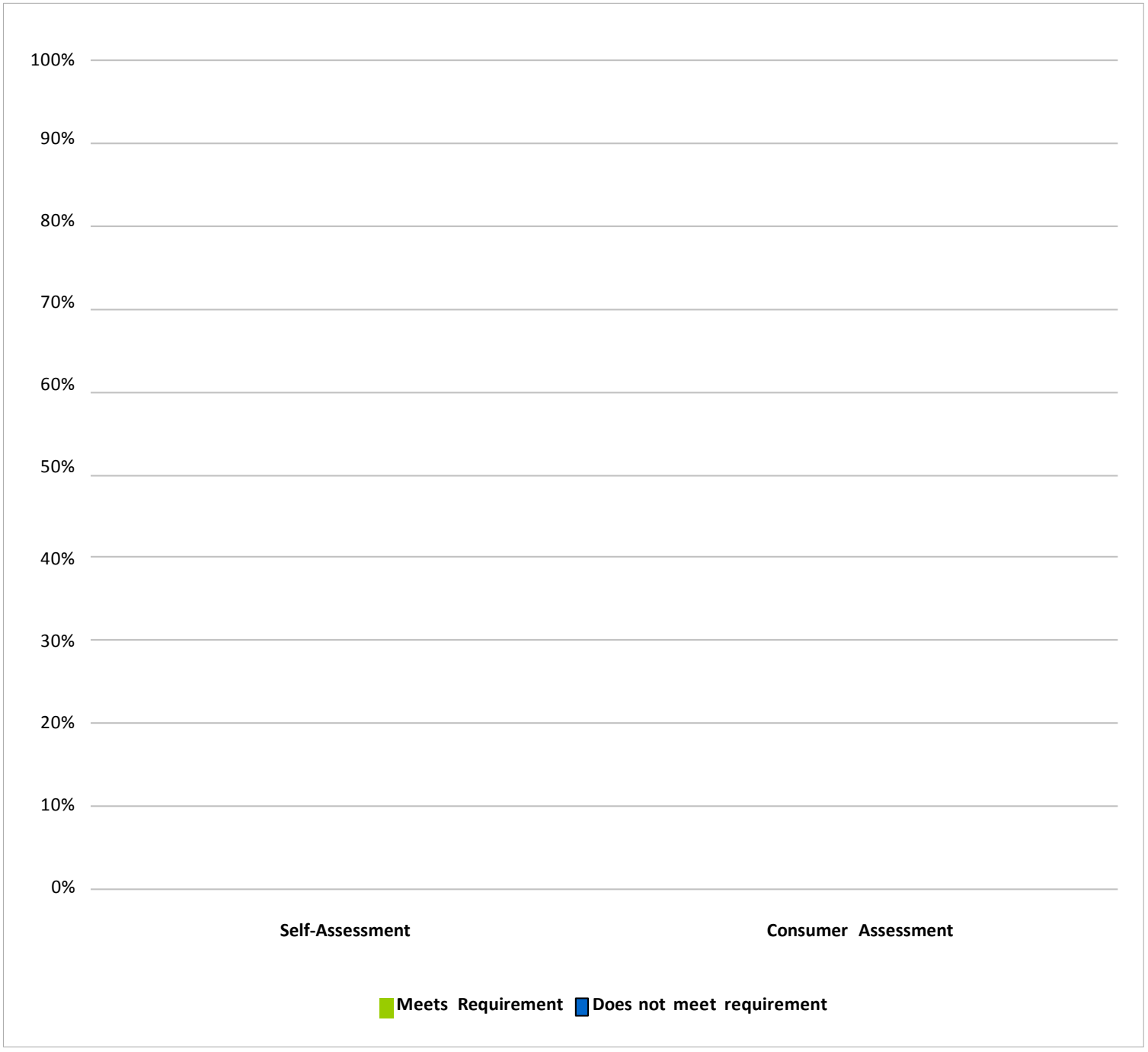
Total Consumer Surveys: 0

All settings compliant

Person-Centered Planning



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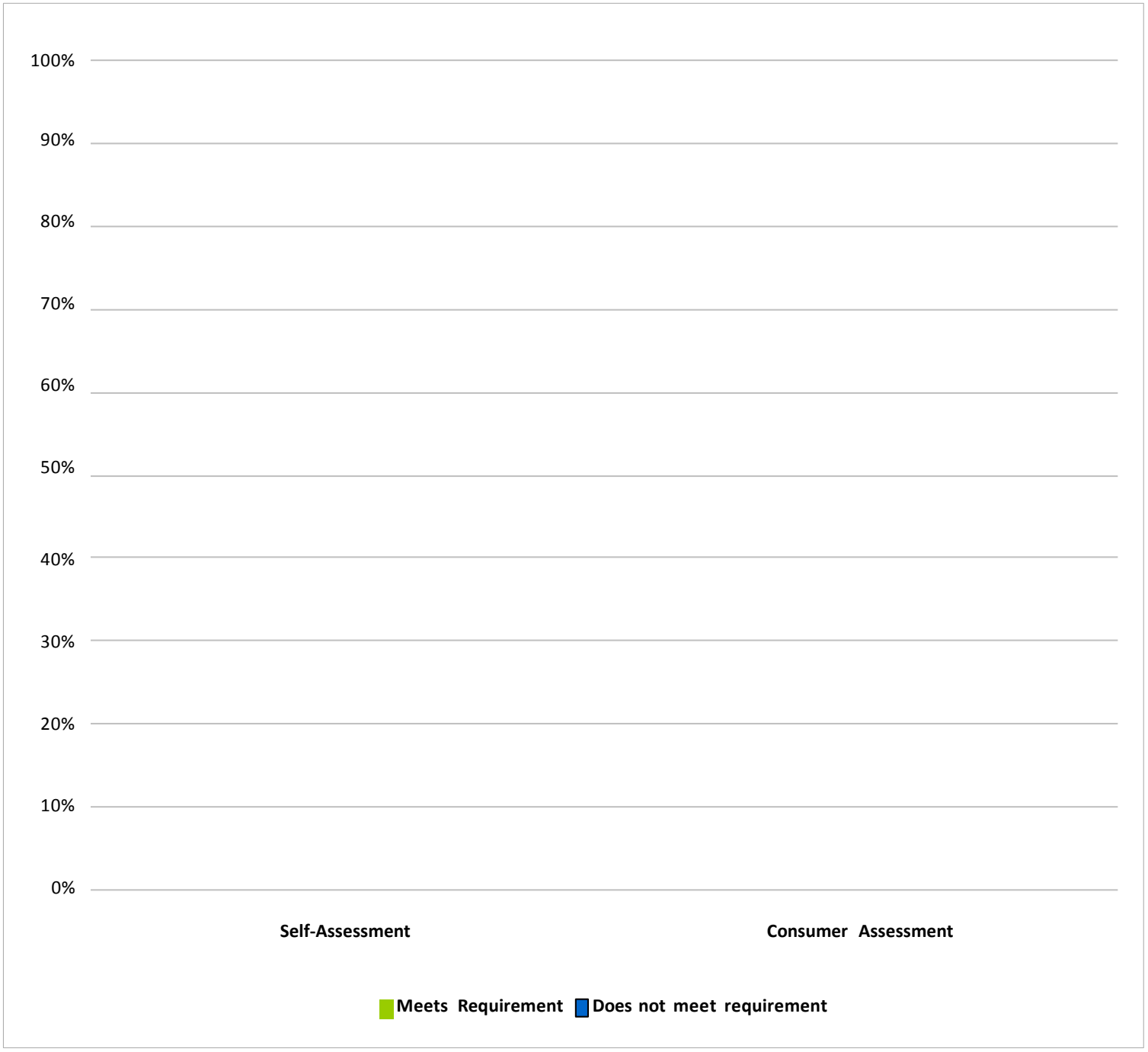
Total Consumer Surveys: 0

All settings compliant

Privacy



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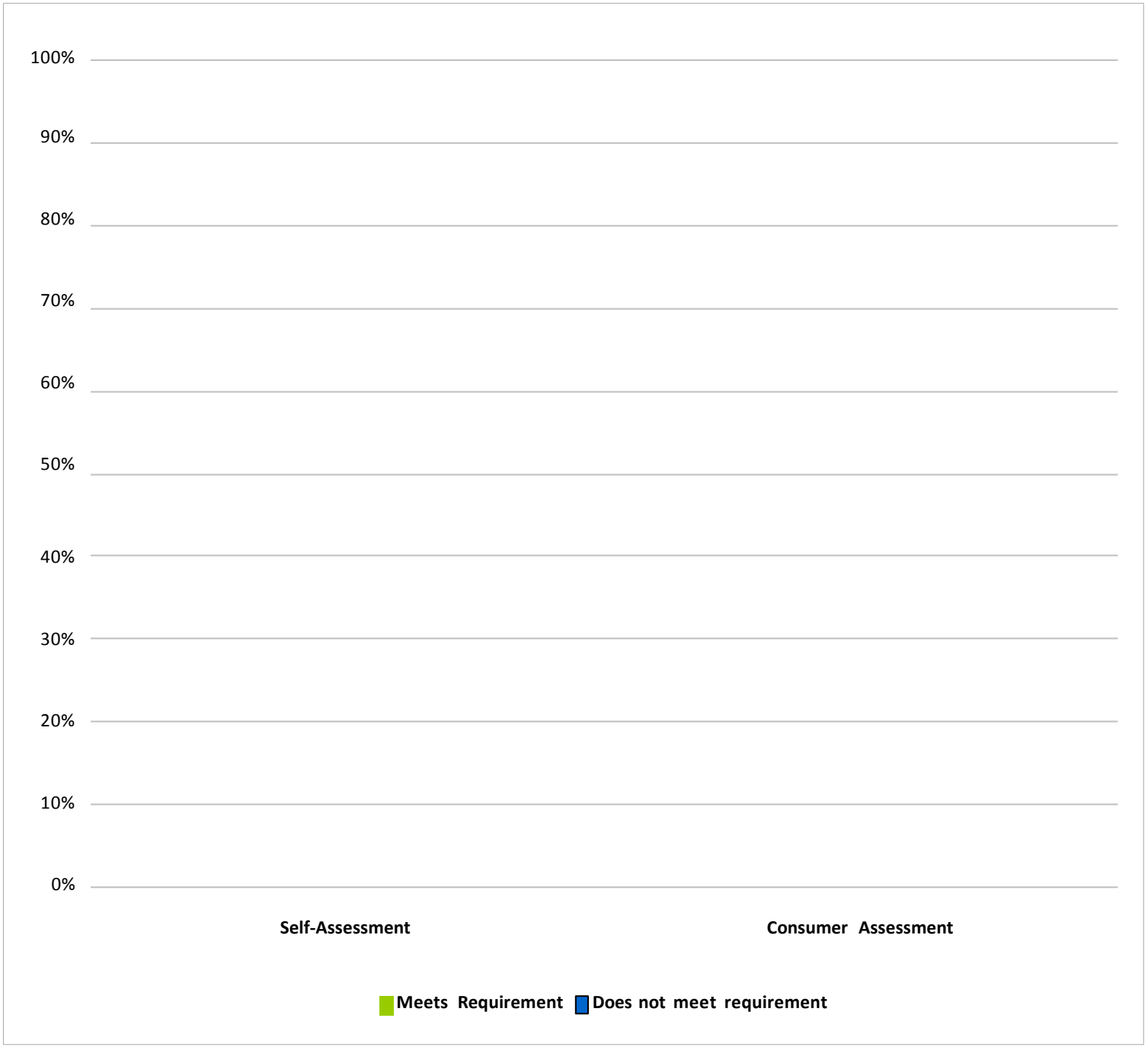
Total Consumer Surveys: 0

All settings compliant

Rights



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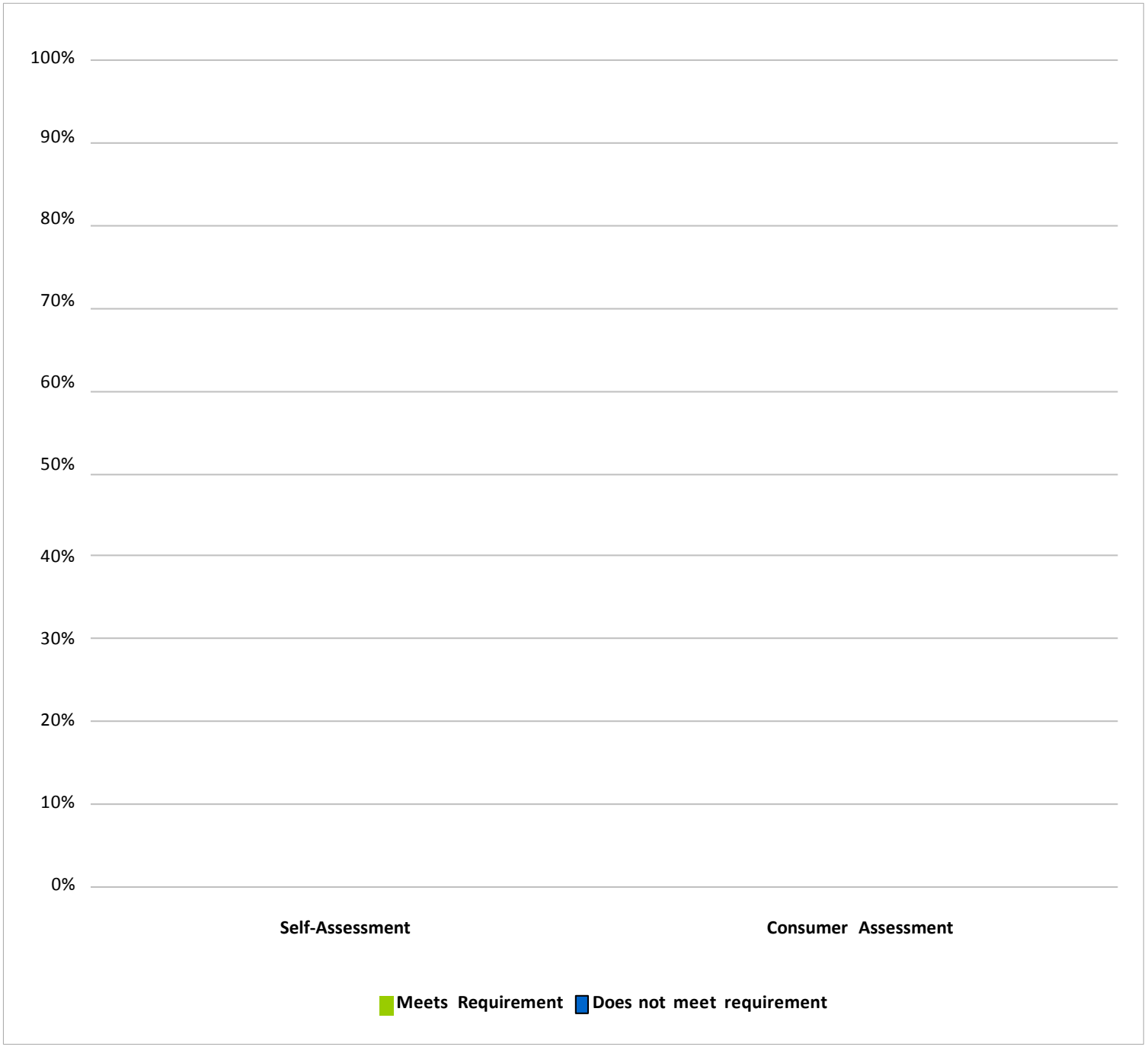
All settings compliant

Total Consumer Surveys: 0

Roommate



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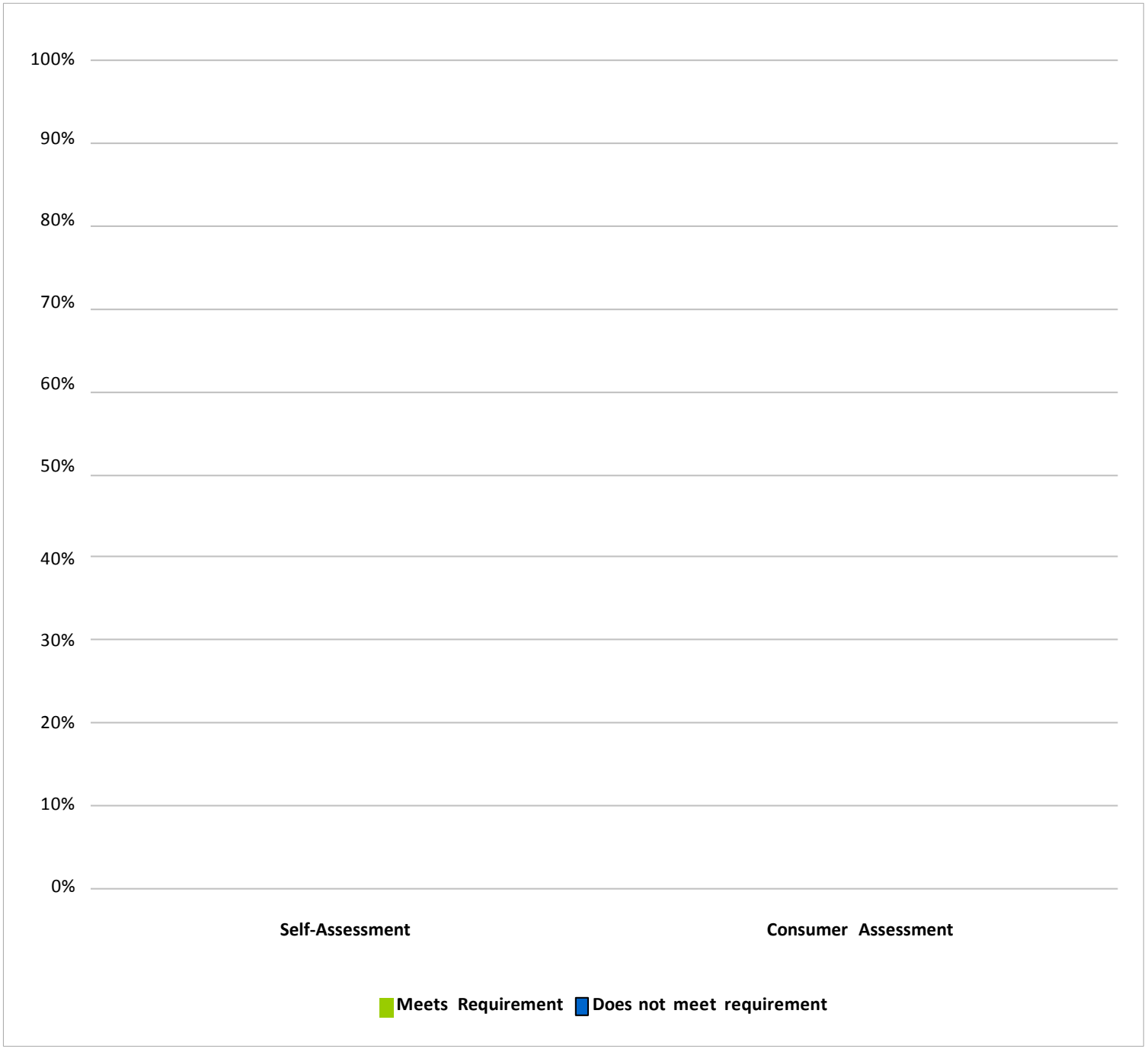
Total Consumer Surveys: 0

Schedule Control

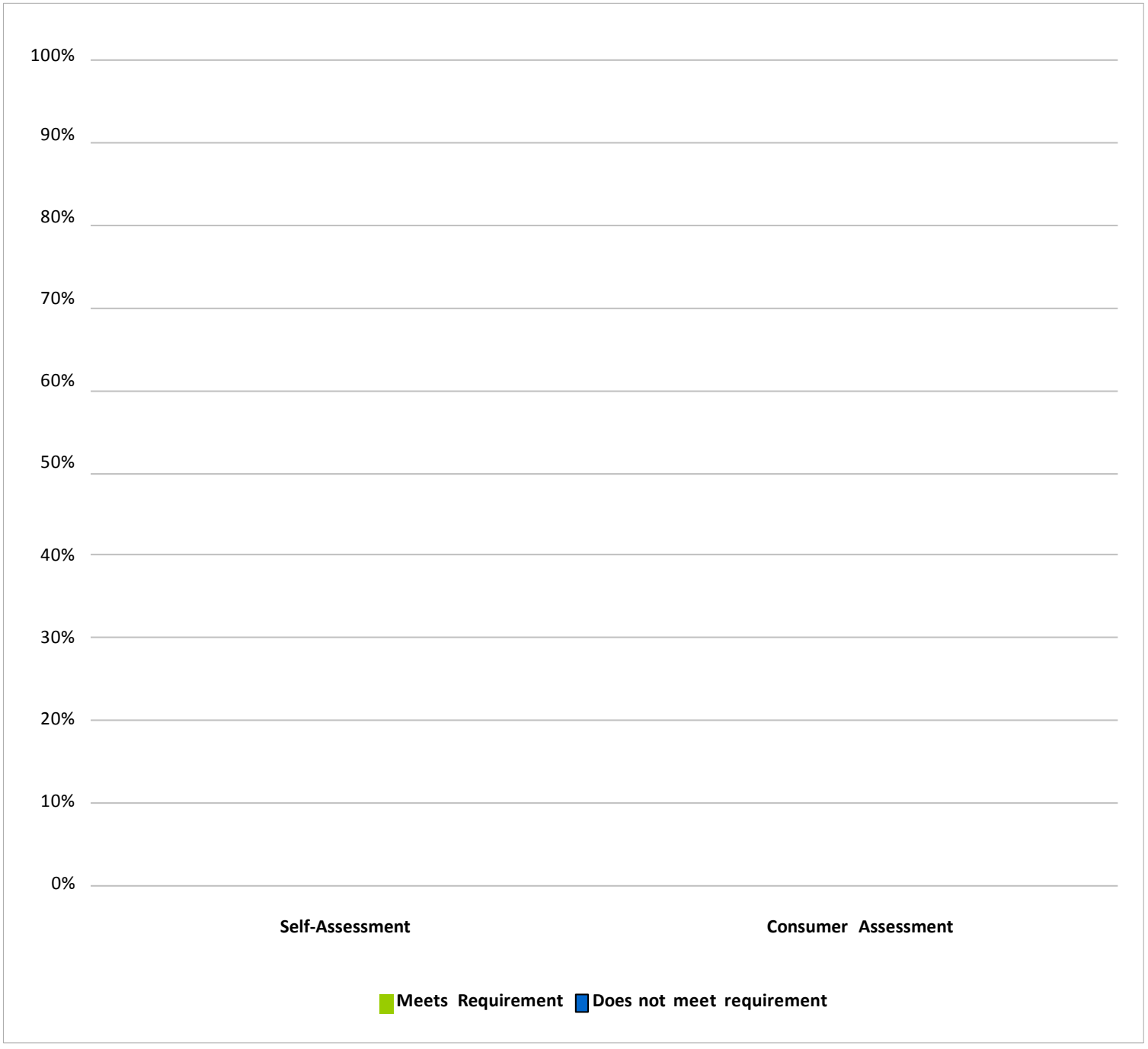


Total Settings Assessed: 0

Total Consumer Surveys: 0

All settings compliant

Setting Selection

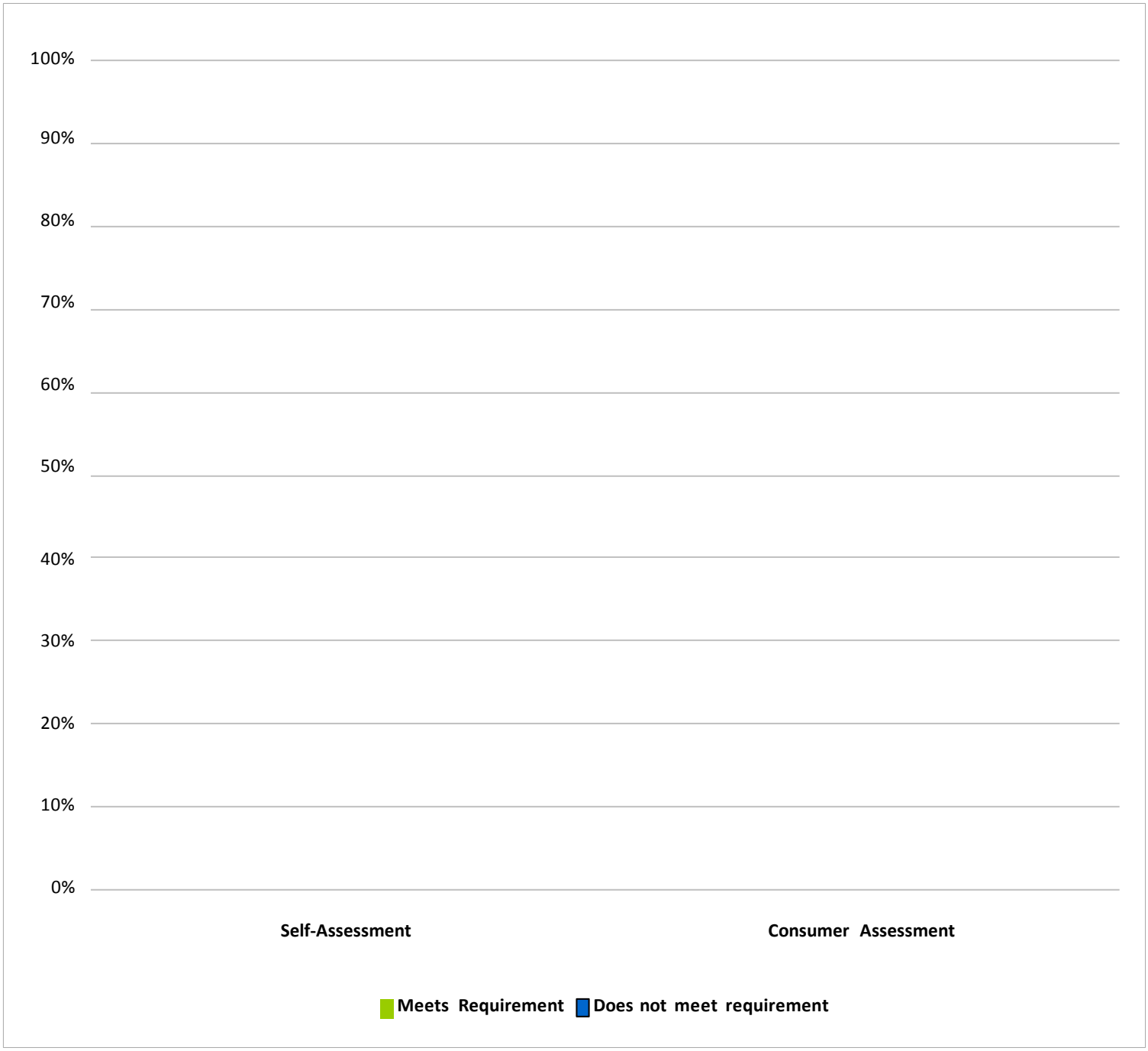


Total Settings Assessed: 0

Total Consumer Surveys: 0

All settings compliant

Visitors



Total Settings Assessed: 0
All settings compliant

Total Consumer Surveys:0

Accessibility

Policy submitted for

- Fully compliant: **1 out of 7 questions**
- Not fully compliant: 3

4

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do individuals have full access to typical facilities in a home such as a kitchen, cooking facilities, dining area, laundry, and comfortable seating in the shared areas?
2) For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.?
3) Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers

preventing individuals' entrance to or exit from certain areas of the setting?

4) Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?
5) Are appliances accessible to individuals (e.g. the washer/dryer are front loading for individuals in wheelchairs)?
6) Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?

Autonomy

Policy submitted for

- Fully compliant: **0 out of 3 questions**
- Not fully compliant: 0

3

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Does the setting optimize interaction, autonomy and independence in making life choices?
2) Are individuals given information to assist them to make informed decisions?
3) Are individuals learning skills to enable them to maximize independence?

Choices

Policy submitted for

- Fully compliant: **3 out of 4 questions**
- Not fully compliant: 3

1

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:
1) Are individuals aware of how to make a service request?

Integration

Policy submitted for

- Fully compliant: **5 out of 15 questions**
- Not fully compliant: 7

8

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?
2) Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as they choose?
3) Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?
4) Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer “No” to this question.)
5) Is the setting in the community among other private residences, retail businesses?
6) Does the setting provide opportunities to engage in community life?
7) Are individuals aware of or have access to materials to become aware of activities occurring outside of the setting?
8) Is the individual employed or does the individual attend day services outside of the setting?
9) Do individuals work in an integrated community setting?
10)) If an individual is of working age, are there activities with the individual to pursue work as an option?

Lease

Policy submitted for

- Fully compliant: **1 out of 3 questions**
- Not fully compliant: 0

3

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is there a legally enforceable agreement comparable to a lease?
2) Does the written agreement include language that provides protections to address eviction

processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Do individuals know their rights regarding housing and when they could be required to relocate? **Note:** Residency agreement submitted, describes on page 12 section 4 why and how the agreement can be ended, by who. Additionally it also lists who to contact if an issue arises.

Location

Policy submitted for

- Fully compliant: **0 out of 2 questions**
- Not fully compliant: 2

0

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is the setting in a public or privately-owned facility that provides inpatient treatment?

2) Is the setting on the grounds of, or immediately adjacent to a publicly-funded healthcare institution?

Locks

Policy submitted for

- Fully compliant: **0 out of 3 questions**
- Not fully compliant: 0

3

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do the rooms have lockable entrance doors, with individuals and staff having keys as needed?
2) Can individuals close and lock the bedroom door?
3) Can individuals close and lock the bathroom door?

Modifications

Policy submitted for

- Fully compliant: **0 out of 4 questions**
- Not fully compliant: 0

4

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?
2) Does documentation note if positive interventions and supports were used prior to any plan modifications?
3) Are less intrusive methods of meeting the need that were tried initially documented?
4) Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?

Personalization

Policy submitted for

- Fully compliant: **0 out of 3 questions**
- Not fully compliant: 3

0

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do individuals have freedom to furnish their sleeping units?

2) Are individual's personal items, such as pictures, books, and memorabilia are present and arranged as they desire?

3) Do the furniture, linens, and other household items reflect the individual's personal choices?

Person-Centered Planning

Policy submitted for 1 out of 5 questions

- Fully compliant: 0
- Not fully compliant: 5

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?
2) Can individuals and chosen representatives explain the process to develop and update their plan?
3) Were individuals present during their last planning meeting?
4) Did/does the planning meeting occur at a time and place convenient individuals to attend?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Does the individual, or a person chosen by the individual, have an active role in the development

and update of the individual's person-centered plan?

Note: Intake policy submitted which discusses an individual assessment and plan determined by residents needs. Does not speak meetings or updating of plan

Privacy

Policy submitted for

- Fully compliant: **3 out of 5 questions**
- Not fully compliant: 4

1

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are there opportunities for individuals to have privacy?
2) Do individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Can an individual have private visits with family and friends?

Note: Resident handbook and policy submitted. Residents can use any public space in setting for visits and their room for visits. Policy does have limits on visiting times

Rights

Policy submitted for

- Fully compliant: **7 out of 11 questions**
- Not fully compliant: 8

2

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Does the setting ensure freedom from coercion and restraint?
2) Are individual's comfortable discussing concerns?
3) Is informal (written and oral) communication conducted in a language that individuals understand?
4) Does staff ensure that conversations about individuals occur privately and not within earshot of other persons living in the setting?

Roommate

Policy submitted for

- Fully compliant: **4 out of 4 questions**
- Not fully compliant: 1

3

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Do individuals have choice of roommates?

Note: Policy submitted on changing of rooms and reasons why. Allows for choice of roommates within possible options

2) Do individuals have their own bedroom?

Note: Residency agreement states choice of room options and sharing of rooms.

3) If not, are individuals given a choice of a roommate? (Note: For individuals who room-share)

Note: Residency agreement states choice of room options and sharing of rooms.

Schedule Control

Policy submitted for 8 out of 11 questions

- Fully compliant: 5
- Not fully compliant: 6

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do individuals have control over their schedules?
2) Do individuals have access to such things as a television, radio, and leisure activities that interest them and can they schedule such activities at their convenience?
3) Can individuals request an alternative meal if desired?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?

Note: Submitted information about signing out to attend community activities and maintaining previous community activities. Also submitted RI resident rights

2) Are individuals able to follow their own flexible (i.e., not set) schedule for waking, bathing, eating, exercising, activities, etc.?

Note: Policy for eating states" meals are served as follows Breakfast 8:00, lunch 12:00 and dinner 5:00. if you are not present at the time no meal will be saved,"

3) Do individuals have a meal at the time and place of his/her choosing?

Note: Policy for eating states" meals are served as follows Breakfast 8:00, lunch 12:00 and dinner 5:00. if you are not present at the time no meal will be saved,"

4) Can individuals sit in any seat in a dining area? (no assigned seats)

Note: Policy submitted states that residents have assigned seats for all meals, and must ask permission to sit elsewhere

5) If an individual desires to eat privately, can s/he do so?

Note: Policy submitted which states client can eat in their room if ill, must pay extra if a tray is sent to room for other reasons.

Setting Selection

Policy submitted for 0 out of 2 questions

- Fully compliant: 2
- Not fully compliant: 0

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are individuals given a choice of available options regarding where to live/receive services?
2) Were individuals given opportunities to visit other settings?

Visitors

Policy submitted for

- Fully compliant: **2 out of 3 questions**
- Not fully compliant: 1

2

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is the furniture arranged as an individual prefers and does the arrangement encourage the comfort and conversation with visitors?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Are individuals able to have visitors at any time?

Note: Policy on visitors states that visitors are permitted only at "reasonable hours and any after-hours visits must be approved by administrator."

2) Are visitors welcomed and encouraged?

Note: Visitors are encouraged but policy limits time visitors can come

Attachment E Heightened Scrutiny Grid

Setting	Address	Reason
Cortland Place	20 Austin Ave, Greenville, RI 02828	Setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care.
The Seasons	5 St. Elizabeth's Way , East Greenwich, RI 02818	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Scandavian Home	50 Warwick Ave, Cranston, RI 02905	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
The Villa at St. Antoine's	400 Mendon Road, North Smithfield, RI 02896	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Brookdale Assisted Living/Smithfield	171 Pleasant View Ave, Smithfield RI 02917	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Brookdale Assisted Living/Cumberland	10 Old Diamond Hill Road, Cumberland, RI 02864	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living

		or Adult Day program located in a building that provides nursing home care
Forest Farm Assisted Living	191 Forest Dr. Middletown, RI 02842	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Brookdale Assisted Living/South Kingstown	1959 Kingstown Road, South Kingstown, RI 02879	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Tockwotton on the Waterfront Assisted Living	500 Waterfront Dr, East Providence, RI 02914	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Winslow Gardens Assisted Living	40 Irving Ave. East Providence, RI 02914	setting• Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care

Attachment F Heightened Scrutiny Questions

Question	Assisted Living Response Y/N	Response	Evidence	Public Comment	Consumer Comment	DOH surveyors/Alliance Validation
Is there a separate entrance or a separate address for the AL?						
Is there a separate administrator, administrator's license, corporation or corporate structure?						
Are the policies and procedures for the AL separate and distinct from the NH?						
Is there an overlap between AL staff and NH staff?						
What training is provided to AL regarding services, philosophy? Is the training different from NH?						
What is access to transportation? Is public transportation an option?						
Do residents have the ability to engage in outside community activities, to the degree the person has interest in? These activities should NOT only be those organized by the setting.						
Are AL community activities, meals						

separate from those of the NH?						
Are the activities that the person engages in, in the community, do they foster additional relationships with community members?						
Are there additional options for services such as transportation?						
Would others in the community see the setting as part of the community not just for people with a disability?						
Is the setting integrated with other residential, community sites?						
What are the policies /procedures for an individual's ability to engage in community activities/individual activities						
Facility has notified each resident/family of heightened scrutiny.						

Facility Name:

Assessor:

Date:

Attachment G HCBS Final Rule Alliance Questions – Residential

Question	Instructions	Response
1. Are grievances policies posted in accessible areas (i.e., near elevators, front desk, etc.)?	Observe the setting and ask for assistance as to where the grievance policies are located.	
2. Do residents appear to be dressed in appropriate clothing for the time of year and are they well groomed?	Observe the setting and the residents.	
3. Is the setting physically accessible both to enter and within the building?	Are there any visible restrictions to certain areas of the setting or would an individual in a wheelchair have difficulty entering the building?	
4. Is the setting in the community among other private residences, retail businesses?	Observable.	
5. Is staff interacting with respect? How are staff addressing participants?	Observe how the staff are interacting with the residents.	
6. How do residents get involved in planning activities?	Engage in a conversation with a resident and ask them about their experiences getting involved with activities.	

Attachment H: HCBS Final Rules Participant Questions

HCBS Final Rules Participant Questions – Residential	
Question	**Response**
1. **Integration** a. Are you able to go out for fun? b. Are you able to choose the activities that you do? c. Are you happy with how often you are able to go out? d. What are some of the things that you usually do? **PROBE:** *Do you get to tell staff your favorite things to do while they are making the activities schedule?* **Is the individual able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** a. Did you have a choice of locations or settings before moving to this home? b. Do you like where you live? c. 1. Are you able to pick your staff? 2. Are you able to choose your aides? **PROBE:** *Were you asked if you wanted to stay or live in a home/apartment with help from family or staff?* *What happens when you don't like your staff?* **C1: For BHDDH Participants, C2: For OHHS/DEA Clients. **Was the individual given the opportunity to explore living options in a non-disability specific setting? What does the process look like if the participant doesn't like their staff?	
3. **Rights/Privacy** a. Are you treated with respect? b. Do you feel important? c. Where do you go if you want privacy or want to have private conversations? d. Can you talk on the phone without anyone listening? **PROBE:** *Does the staff monitor all of your phone calls?* **How much opportunity is there for the participant to have privacy?	

HCBS Final Rules Participant Questions – Residential	
Question	**Response**
4. **Autonomy/Schedule Control** a. Who decides your schedule each day (like when to wake up, eat, etc.)? b. Can you pick out what you want for snacks and meals? c. Are you able to stay home if you don't want to go to your day program or schedule activities? **PROBE:** *What happens if you don't want to go bowling or to the beach?* **Does the participant have control over their schedule?	
5. **Visitors** a. Are you able to have visitors at any time? b. Has there ever been a time when you were not allowed to have a visitor? **PROBE:** *What happened the last time you had a visitor?* **Is the participant restricted to when they have visitors?	
6. **Roommates** a. How did you pick your roommates or housemates? **PROBE:** *Do you like your roommate?* **What is the option for the participant to make a change if they don't like their roommate?	

Other HCBS Final Rules Requirements:

1. Lease requirement – we can ask the provider for a sample lease
    a. Does the individual have appeal rights and the rights of a Tenant? **Y N (Circle One)**
    b. Does the lease give the resident the option of having a lock on their door? **Y N (Circle One)**
2. Accessibility – this can be observed in the setting
    a. Are participants able to move around the building/facility freely? **Y N (Circle One)**
3. Locks – this can be observed in the setting
    a. Observable on participants doors in a residential setting
4. Personalization – this can be observed in the setting
    a. Does the individual have pictures, posters, or personal trinkets set up in their room? **Y N (Circle One)**
    b. If no, does the individual have their room decorated as they'd like it to be? **Y N/A (Circle One)**
5. Modifications – this will need to be a person-centered plan review

Attachment I: HCBS Final Rules Participant Questions – Non- Residential

HCBS Final Rules Participant Questions – Non-Residential	
Question	**Response**
1. **Integration** a. Are you offered opportunities to participate in activities you enjoy outside of the building? b. How often are you offered the opportunity to go out? c. What types of things do you usually do? **PROBE:** *Do you get to tell staff your favorite things to do while they are making the activities schedule?* **Is the individual able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** a. Were you given a choice of other places to go? b. 1. Are you able to pick your staff? 2. Are you able to choose your aides? **PROBE:** *Were you asked if you wanted to go to a senior center with supports and staff instead of adult day?* ****B1: For BHDDH Participants, B2: For OHHS/DEA Clients. **Was the individual given the opportunity to explore living options in a non-disability specific setting?	
3. **Rights/Privacy** a. Are you treated with respect? b. Do you feel important here? c. Where do you go if you want privacy or want to have private conversations? **PROBE:** *Do you always feel like there is someone listening to your conversations?* **How much opportunity is there for the participant to have privacy?	
4. **Autonomy** a. Who decides the activities you do when you are here? **PROBE:** *What happens if you don't like any of the activities on the schedule?* **Does the participant have freedom and choice over their schedule?	

Attachment I: HCBS Final Rules Staff Questions

HCBS Final Rules Staff Questions – Residential	
Question	**Response**
1. **Integration** e. What steps do you take to include individuals in community activities of their choosing? f. How often do individuals go out? g. How do they get there? **Is the individual able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** d. Can individuals come and visit before choosing this setting? e. Can individuals pick their staff? f. If an individual wanted to make a change to their service or provider, how would they do that? **Was the individual given the opportunity to explore options in a non-disability specific setting? What does the process look like if the participant doesn't like their staff?	
3. **Rights/Privacy** e. Where can individuals go to have privacy? **How much opportunity is there for the participant to have privacy?	
4. **Autonomy/Schedule Control** d. How do individuals dictate their daily schedule (when to wake up, eat, etc.)? e. Do the individuals choose their own meals? f. What happens if an individual wants to stay home from their day program? g. Are there any activities the individuals are required to attend? **Does the participants have control of their schedule?	
5. **Visitors** c. How often do individuals have visitors? d. How do you make it known to the individuals that they can have visitors of their choosing at any time? e. Where can people meet alone with their visitors? **Is the participant restricted to when they have visitors?	

HCBS Final Rules Staff Questions – Residential	
Question	**Response**
6. **Roommates** b. How do individuals pick new roommates or housemates? **What is the option for the participant to make a change if they don't like their roommate?	

Other HCBS Final Rules Requirements:

1. Lease requirement – we can ask the provider for a sample lease
    a. Does the individual have appeal rights and the rights of a Tenant?
    b. Does the lease give the resident the option of having a lock on their door?
2. Accessibility – this can be observed in the setting
    a. Are participants able to move around the building/facility freely?
3. Locks – this can be observed in the setting
    a. Observable on participants doors in a residential setting
4. Personalization – this can be observed in the setting
    a. Does the individual have the opportunity to decorate with pictures, posters, or personal trinkets set up in their room?
5. Modifications – this will need to be a person-centered plan review

HCBS Final Rules Staff Questions – Non-Residential	
Question	**Response**
1. **Integration** d. Who decides what community based activities are offered? e. How are individuals encouraged to communicate the activities that they want to do? f. How often are community activities offered? **Are participants able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** c. Can individuals come and visit before choosing this setting? d. Can individuals pick their staff?	

HCBS Final Rules Staff Questions – Non-Residential	
Question	**Response**
e. If an individual wanted to make a change to their service or provider, how would they do that? f. Are there any restrictions to a participant choosing which days they attend the program? **Was the participant given the opportunity to explore living options in a non-disability specific setting? Or was the participant given the option to go to a senior center with support rather than go to an adult day? Are participants unable to pick the days they want to attend due to a full census?	
3. **Rights/Privacy** d. Where can individuals go to have privacy? **How much opportunity is there for the participant to have privacy?	
4. **Autonomy** b. How do individuals choose their activities when they are here? **Does the Participant have control over their schedule?	