

Office of Developmental Disabilities (ODDS)

# Home and Community-Based Services (HCBS)

On-Site Compliance Assessments for  
Residential Service Settings

# What is the On-Site Compliance Assessment for Residential Settings?

The assessment has been developed as a component of Oregon's Global Transition Plan to comply with new Centers for Medicare and Medicaid Services (CMS) rules.

In order to meet the timelines identified in Oregon's transition plan, all residential programs that provide Home and Community-Based Services (HCBS) must be visited to validate each program site's level of compliance with the new HCBS rules.

# More information about HCBS

To get more information about the new HCBS Rules, you may visit Oregon's HCBS website at:

<http://www.oregon.gov/dhs/seniors-disabilities/HCBS/Pages/index.aspx>

Oregon's Transition Plan can be found at:

<http://www.oregon.gov/dhs/seniors-disabilities/HCBS/Pages/Transition-Plan.aspx>

An overview Power Point presentation can be found at:

<http://www.oregon.gov/dhs/seniors-disabilities/HCBS/Documents/Oregon%20HCBS%20Introduction%20Presentation.pdf>

The new Oregon Administrative Rules for HCBS, Chapter 411, Division 004 can be found at:

<http://www.dhs.state.or.us/policy/spd/alpha.htm>

# Purpose of the On-Site Compliance Assessments

The on-site compliance assessments serve two purposes:

- 1) To determine the status of state-wide compliance with the new HCBS residential setting requirements
- 2) To serve as a tool for providers to:
  - Identify compliance with the new rules
  - Serve as a platform for providers to create a plan for correction to come into substantial compliance with the new HCBS requirements

# Which programs and sites will be assessed in 2016? When?

An on-site assessment will occur at every provider-owned, controlled, or operated residential service site due for a licensing or certification renewal during 2016.

A sample of homes not due for a licensing or certification renewal in 2016 will also receive an HCBS On-site Compliance Assessment during 2016.

The remaining home sites (those not due for renewal in 2016 and those not selected as part of the sample) will be assessed during the 2017 year.

# Which programs and sites will be assessed in 2016? When? (con't)

There will be on-site visits to complete the assessment of foster homes (serving children and adults) and 24-hour residential program homes.

One checklist will be completed per home site.

Ideally, the on-site compliance assessment may be incorporated into the site visit that is part of the annual license or certification renewal process for an existing program.

On-site reviews will occur for provider-owned, controlled or operated employment and day service programs in a separate process.

# Who will be conducting the On-Site Assessments?

Only OLRO (Office of Licensing and Regulatory Oversight), ODDS, CDDP, or Regional staff may conduct the on-site assessment.

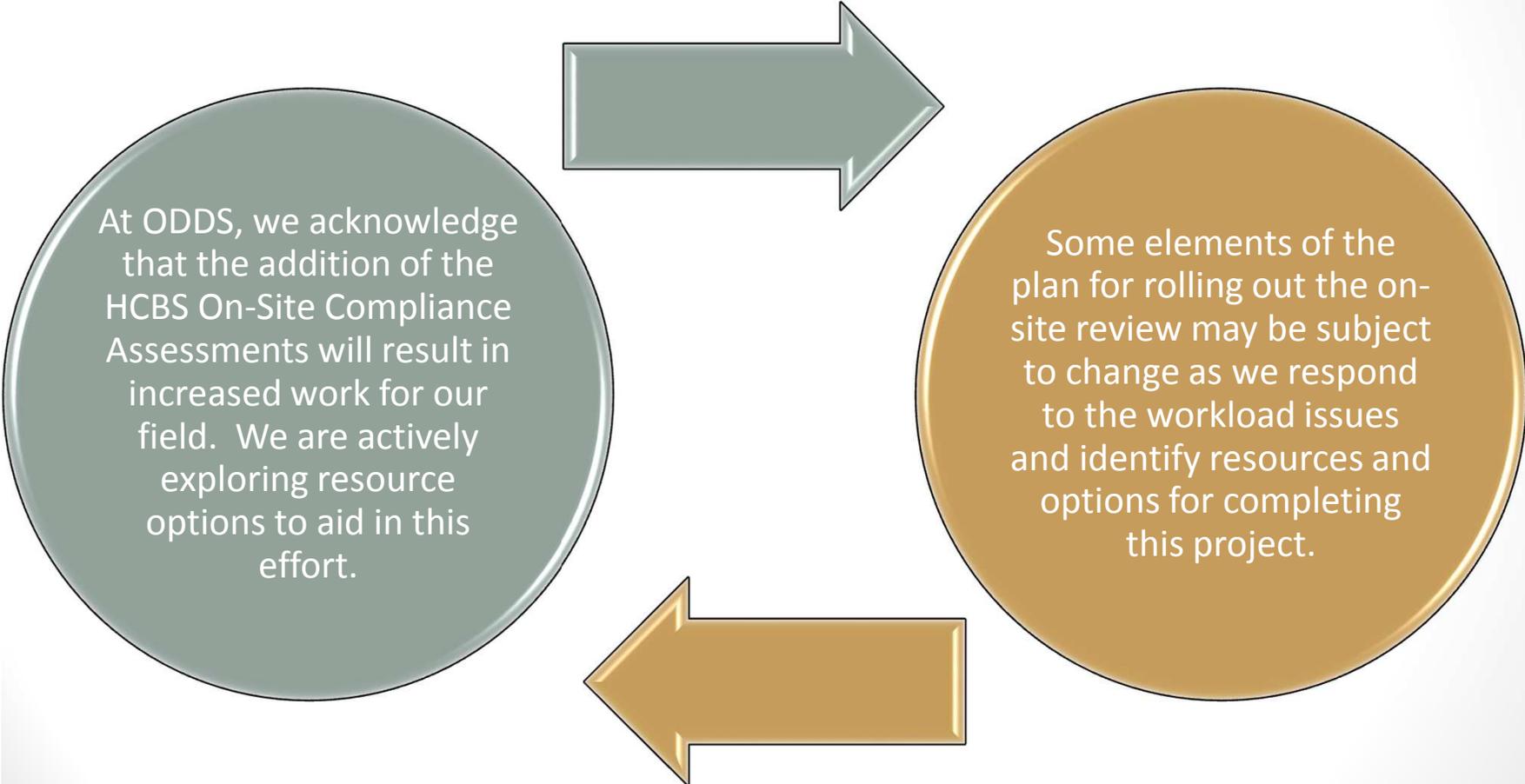
Providers may not complete the compliance assessment on behalf of their program or another provider's program.

The assessments may be conducted by staff who typically perform licensing and certification renewals. CDDPs may elect to have Services Coordinators complete the assessment in foster care homes.

The licensing or certification entity that typically issues or renews licensing or certification for a program type will be the entity responsible to complete the assessment.

- For example, OLRO will complete the on-site reviews for 24-hour residential programs and CDDPs will complete the on-site assessment for foster care settings.

# Workload Implications



At ODDS, we acknowledge that the addition of the HCBS On-Site Compliance Assessments will result in increased work for our field. We are actively exploring resource options to aid in this effort.

Some elements of the plan for rolling out the on-site review may be subject to change as we respond to the workload issues and identify resources and options for completing this project.

# Process for the HCBS On-Site Assessment

The HCBS on-site assessments may be incorporated into the existing renewal process for sites renewing licenses or certification in 2016.

- The HCBS on-site compliance assessment should not result in an additional site visit for the homes being reviewed as part of the renewal process.
- The HCBS on-site assessment may occur as a separate visit outside of the renewal process at the discretion of the entity responsible to complete the assessment.

The HCBS on-site assessments completed outside of the renewal process may be scheduled with the provider or conducted unannounced at the discretion of the entity responsible to complete the review.

# Why is there a different form for children and adults?

There are two different assessment forms:

- One for adults (individuals age 18 or older)
- One for children (individuals under the age of 18)

The assessment questions, format, and order are very similar between the two forms. The variation in assessments addresses the differences in how the new HCBS freedoms and protections apply to minor children in contrast to adults.

The differences in application of the rules for children and adults is illustrated throughout the instruction examples for compliance and non-compliance indicators.

# Assessment Process

For  
Foster  
Care,  
the  
reviewer  
will:

- Complete the On-Site Compliance Assessment as part of an on-site visit to the home.
- Submit a completed assessment (except for the provider plan for correction portions) to ODDS via secure email at:  
[ODDSHCBS.ResidentialReview@state.or.us](mailto:ODDSHCBS.ResidentialReview@state.or.us).
- Retain a copy of the assessment completed by the reviewer.
- Provide a copy of the assessment completed by the reviewer to the provider (*Recommended: send the copy to the provider following the on-site review visit via email or mail*).
- Ensure a copy of the assessment completed by the reviewer is provided to both the Services Coordinator/CDDP assigned to provide case management for individuals in the home and the licensor/certifier assigned to the home site.

# Assessment Process (con't)

For  
Foster  
Care,  
the  
provider  
will:

- Complete the “plan for correction” sections of the assessment form in any area where the review determines the provider is not in compliance with the HCBS requirements.
- Submit the assessment form with the completed “plan for correction” and “to be completed by” sections to the licensor or certifier assigned to the home site.
- Obtain approval of the “plan for correction” from the licensor or certifier.
- Follow the proposed actions as part of the “plan for correction” in order to make substantial progress towards compliance with the new HCBS rules by September 1, 2018.

# Assessment Process (con't)

For Foster Care, the licensor or certifier will:

- Determine if the “plan for correction” actions and timeframes proposed by the provider are sufficient to achieve substantial compliance with HCBS rules.
- Inform the provider when the plan proposal is deemed adequate.
- Provide a copy of the assessment form which now includes the approved “plan for correction” to the services coordinator/CDDP.
- Monitor the progress of the provider in completing the identified actions included in the “plan for correction” and communicate with appropriate parties (such as the CDDP) regarding the status.

# Assessment Process

For 24-Hour Residential Settings, the reviewer will:

- Complete the On-Site Compliance Assessment as part of an on-site visit to the home.
- Using the ASPEN system, identify for which rules the provider is out of compliance.
- Retain a copy of the compliance assessment completed by the reviewer.
- Provide a copy of the ASPEN report specific to the HCBS Compliance Assessment to the licensee.
- Provide a copy of the ASPEN report to the CDDP designee for county responsible for monitoring services delivered in the home site.

# Assessment Process (con't)

For 24-  
Hour  
Residential  
Settings,  
the  
provider  
will:

- Complete a Plan of Improvement (POI) for each area of non-compliance with the HCBS requirements.
- Submit the ASPEN report with the proposed POI to the licensor assigned to the home site and provide a copy to the CDDP that monitors the home.
- Presume the POI is a sufficient plan to achieve compliance with HCBS unless the OLRO informs the provider the plan is not adequate.
- Follow the proposed actions in the POI in order to make substantial progress towards compliance with the new HCBS rules by September 1, 2018.

# Assessment Process (con't)

For 24-Hour Residential Settings, the licenser or certifier will:

- Determine if the POI actions and timeframes proposed by the provider are sufficient to achieve substantial compliance with HCBS rules.
- Inform the provider if the POI proposal is not adequate to achieve compliance with HCBS rules.
- Monitor the progress of the provider in completing the identified actions included in the “plan for correction” and communicate with appropriate parties (such as the CDDP) regarding the status.

# Will additional on-site visits be required to monitor compliance?

Additional visits to the home by the licensor or certifier may not be necessary.

Depending on the “plan for correction” actions proposed by the provider, compliance may be verified through numerous ways.

For example:

- A Services Coordinator may be able to provide on-site verification and documentation of a completed action in the provider’s “plan for correction” as part of the Services Coordinator’s routine site/service monitoring.
- A provider could submit a photograph which shows completion of an action.
- A provider or Services Coordinator could submit documentation such as an ISP which includes information needed to verify compliance.

However, whenever a provider has been found to be non-compliant, some form of verification of corrective action or compliance must occur.

# Completing the Assessment Form

The reviewer will complete one assessment per home site.

The assessment questions should be answered based on those individuals in the household serving as a representative sample.

- In many circumstances, a typical renewal review of a home includes a thorough review of the provider's compliance for 1-2 individuals in the home as a representative measure of the compliance status of the home

However, if a reviewer observes that a provider is non-compliant related to an individual who was not targeted as the representative sample:

- The non-compliance situation must be recorded on the assessment form and
- The provider should be determined non-compliant for that measure

# Completing the Assessment (con't)

The completion of the on-site assessment may require some additional follow up.

Follow up actions may include, but are not limited to:

- Contacting the Services Coordinator assigned to individuals in the home for clarification or documentation.
- Consulting with CDDP, Regional, OLRO, or ODDS staff regarding the interpretation of the rule and/or its application.
- Requesting documentation or further information from the provider.

# Demographics Section

Agency: Identify the agency/license or certificate holder.

Date of Review: Indicate the date of the actual on-site visit.

Home/Site Name: Identify the site or home name used.

Address: Provide the physical address of the home site.

Individuals residing in the home: Include all individuals residing in the home who receive HCBS services. Be sure to enter the first name, last name, and initials of the individuals.

Indicate which individuals were identified as representative samples for the assessment process by marking the box under the “Targeted for Review” column

# Answering the assessment questions

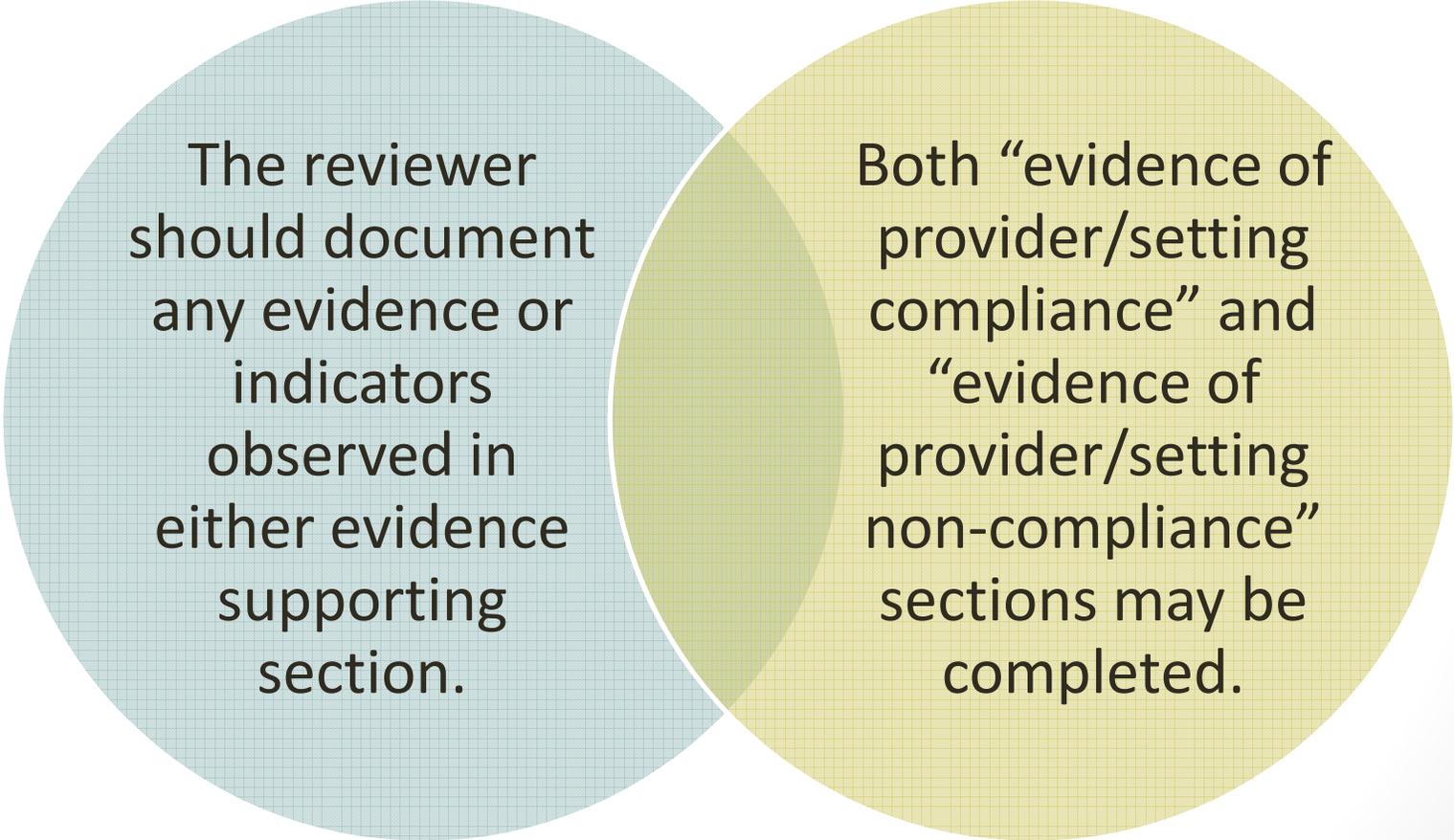
Each regulatory requirement is cited on the form, including the OAR number for reference.

Each rule identified in the assessment has one or more questions to guide the reviewer in determining if the provider is compliant or non-compliant.

Each rule portion includes a section where the review can note evidence observed in support of a compliant or non-compliant determination.

Each question has a final determination component where the reviewer indicates if the provider is determined to be non-compliant based on weighing of observed and gathered information and applying professional judgment.

# Answering the assessment questions (con't)



The reviewer should document any evidence or indicators observed in either evidence supporting section.

Both “evidence of provider/setting compliance” and “evidence of provider/setting non-compliance” sections may be completed.

# Answering the assessment questions (con't)

Whenever a provider is determined to be out of compliance with the HCBS rule, this finding must:

Be supported by an identified source of evidence and an explanation of the finding must be documented on the assessment form.

# Important Notes

Please note the examples provided in the instructions and sources of evidence listed on the form are not requirements. They are meant to serve as tools and illustrations for interpretation of the new rules and application of the assessment.



The reviewer may not necessarily observe the sources or situations described. The absence of observation of the examples or sources indicated should not necessarily result in a non-compliance determination.

# Important Notes (con't)

When applying the assessment for providers serving children under the age of 18, consideration must be given to the role and responsibilities prescribed to a caregiver of a minor child.

The HCBS requirements are to be applied and evaluated from the “reasonable, prudent parent standard”. This means that the HCBS rules/protections should be applied in a manner similar to how a parent would reasonably apply them for a non-disabled child of the same age.

When a provider is more restrictive than would be standard parenting for a non-disabled child of the same age, this is considered a limitation.

# Trainings, Additional Questions, and Support

There will be call-in sessions available for staff to ask questions and get additional clarification on using the compliance assessment in January 2016:

- Thursday, January 7, 2016 from 12- 1 pm
- Thursday, January 21, 2016 from 12-1 pm

Phone number for both call-ins: 1-877-336-1831 (guest code: 230706)

If you have additional questions, please contact Rose Herrera at [Rose.K.Herrera@state.or.us](mailto:Rose.K.Herrera@state.or.us).

Training for providers is being developed and further communication will be out soon.