

Assisted Living and the Settings Rule

Frequently Asked Questions and Answers

The purpose of this Frequently Asked Questions document is to provide assisted living settings with answer to questions related to the Indiana Family and Social Services Administration Statewide Transition Plan rollout as it relates to the Division of Aging (DA). Additional details are available in our current statewide transition plan available at

<http://www.in.gov/fssa/da/4917.htm>.

- 1. If a setting deemed presumed institutional because of the presence of a memory care unit excludes waiver participants from the memory care unit, can the setting overcome the presumed institutional determination?**

ANSWER: No, even if waiver participants are excluded from the secure memory unit, the setting would still be presumed institutional as it would be co-located with an in-patient treatment facility, i.e. the secure memory care unit.

- 2. Can a participant residing in an assistant living setting be moved to the settings memory care unit after March 1, 2017?**

ANSWER: If the participant is already a waiver participant and living at the setting, they may remain at that setting until March of 2019, or until they are transitioned into a compliant setting. Before admitting an individual to a memory care unit after March 1, 2017, the provider must document the following and coordinate with the waiver case manager:

- The personal history of the individual with dementia;
- The person's current health condition and remaining abilities;
- The conditions that trigger wandering or exit-seeking actions, their history and background;
- Previously tried responses to wandering and exit-seeking actions that respond to the person's unique circumstances;
- Assurance that the modification will cause no harm to the participant;
- The specific modification being agreed to by the individual or their legal guardian; and
- The time period agreed to for the modification to be in place before the next review of the individual's circumstances; this cannot exceed 180 days. The provider must review the modification upon any change in condition of the individual.

- 3. If a setting has restricted egress as described in the proposed rule, is that setting presumed institutional?**

ANSWER: Yes; however, the provider may overcome the presumption by participating in the heightened scrutiny review process.

- 4. What tools will the DA make available to provider settings to help identify and address any setting specific attributes that contributed to the setting being deemed presumed institutional?**

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ANSWER: Providers who believe they can overcome the presumption must contact the DA at Da.Hcbssettingsrule@fssa.IN.gov by March 1, 2017. Then, a DA staff member will contact the provider to discuss the potential for a remediation plan and provide technical assistance.

5. How long will it take to complete the heightened scrutiny review process?

ANSWER: The DA will exercise its due diligence in preparing and submitting packets to the Centers for Medicare and Medicaid Services (CMS) for review of settings it determines overcome the institutional presumption within a reasonable time; however, because the final approval is issued by CMS, the DA cannot provide an estimate of the processing time for heightened scrutiny submissions.

6. Will individuals scheduled to move into a presumed institutional provider setting on or before March 17, 2017 be allowed to move into the setting as planned?

ANSWER: Yes.

7. How many remediation letters went out and how many presumed institutional letters went out?

ANSWER: The DA sent 33 remediation letters to assisted living provider settings that were not presumed institutional and 51 letters to assisted living provider settings determined to be presumed institutional.

8. Will the pick list be updated to reflect assisted living providers who can no longer accept new waiver participants?

ANSWER: Yes, the pick list will indicate which assisted living providers cannot accept new waiver participants.

9. What happens to individuals who have an approved initial service plan but are pending confirmation (usually due to pending Medicaid approval)?

ANSWER: Individuals who have an approved initial services plan but are pending confirmation will be able to be move in.

10. What is the communication plan for current waiver participants who are impacted by this rule?

ANSWER: Please see the transition plan at <http://www.in.gov/fssa/da/4917.htm> for details.