

# HCBS Compliance Assessment for NON-POCO RESIDENTIAL SETTINGS

## Information and Instruction Sheet for Providers

This packet, provided by the Division of Mental Health and Addiction (DMHA) State Evaluation Team (SET), is designed to assist community mental health center (CMHC) staff in assessing residential settings which are not owned, controlled, or operated by the CMHC for compliance with the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) Settings Final Rule ("the Final Rule"). Per the Final Rule, CMHCs are responsible for assessing and ensuring the HCBS compliance of the residential setting for every member applying for or participating in any Medicaid HCBS program, including the two 1915(i) Medicaid State Plan Benefit mental health programs for adults in Indiana: Adult Mental Health Habilitation (AMHH) and Behavioral and Primary Healthcare Coordination (BPHC). Indiana's HCBS Statewide Transition Plan (STP) tasks individual CMHCs with assessing and, where required, ensuring the HCBS compliance of a member's residential setting when the member does not live in a setting owned, controlled, or operated by the CMHC.

### Overview of the Assessment and Compliance Determination Process for Non-POCO Residential Settings

The majority of members participating in AMHH or BPHC live in their own homes, or with a family member in a home owned or rented by that family member, and these settings are presumed to be fully compliant with the requirements of the Final Rule. Other members live in residential settings owned, controlled, or operated by a CMHC, and DMHA has been heavily involved in the assessment and compliance process for those residential settings. A small number of members, however, live in non-POCO residential settings not owned, controlled, or operated by a CMHC, such as (*this list is not all-inclusive*):

- Unlicensed Assisted Living Facilities and Family Care Homes (AFCHs)
- County Homes
- Cluster homes or cluster apartments owned by non-profit agencies

### Responsibility for Assessing and Ensuring HCBS Compliance

1. Non-POCO residential setting - For residential settings not owned, controlled, or operated by ANY provider of HCBS (DMHA, DA, DDRS), **the CMHC** is responsible for assessing the HCBS compliance of the setting, and for ensuring the Setting Operating Authority (SOA) completes any remediation required to bring the setting into full HCBS compliance. DMHA is responsible for makes compliance determinations for these settings.

## **How Often Must Non-POCO Residential Settings Be Assessed?**

CMS requires that every setting in which a person receiving Medicaid HCBS lives must be compliant with the requirements of the Final Rule. Settings only need to be assessed for compliance **one time**, unless there are substantive physical or service programming changes at the setting which could conceivably have an impact on the setting's HCBS compliance status. Examples of "substantive changes" include:

1. Removal of lockable bedroom or bathroom doors
2. Changes to meal arrangements or food availability
3. Implementation of curfew or visiting hours
4. Change in ownership or operation of the setting
5. Change in status of setting being an approved provider of Medicaid 1915(c) waiver services

## **Procedure for Assessing and Determining HCBS Compliance for Non-POCO Residential Settings**

To assist CMHCs in assessing residential settings not owned, controlled, or operated by a CMHC, this assessment packet includes a "Non-POCO Residential Setting Assessment", which contains exploratory questions to help CMHCs and DMHA determine whether the setting is fully compliant with the Final Rule. Resources are available to help CMHCs determine whether a setting is an approved provider of Medicaid 1915(c) waiver services as described on pages 6 and 7 of this information sheet.

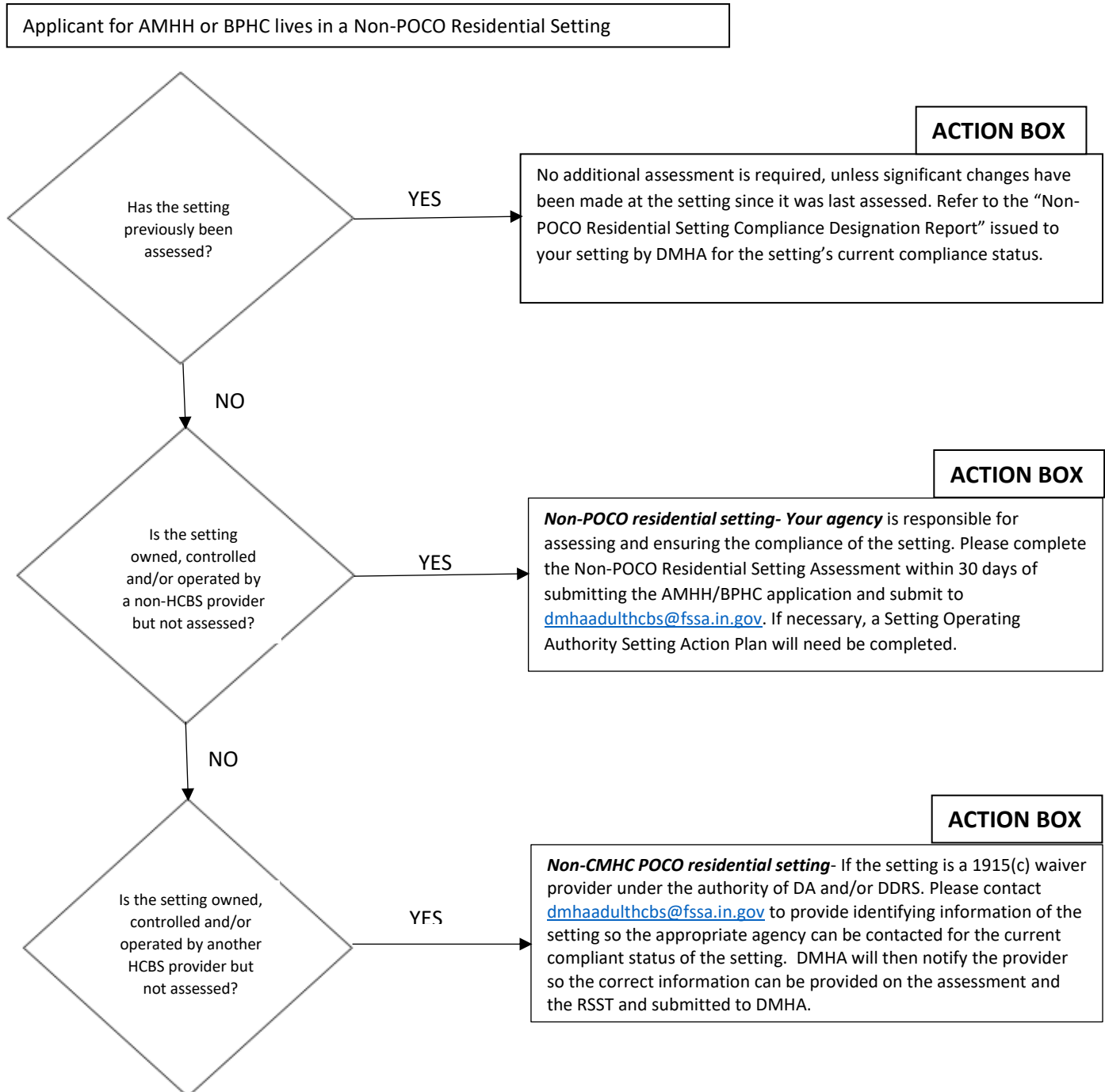
1. Non-POCO residential setting-The setting is neither provider owned, controlled and/or operated by a CMHC nor by an approved provider of Medicaid 1915(c) waiver services (Division of Aging or Division of Disability and Rehabilitative Services)
  - a. The CMHC works with the Setting Operating Authority to complete the Non-POCO Residential Setting Assessment and address any findings that are not HCBS compliant.
  - b. Once these preliminary determinations have been made, the CMHC works with the Setting Operating Authority to determine if the non-compliant findings will be addressed.
  - c. DMHA is responsible for providing the HCBS final compliance designation.

NOTE: For Non-CMHC POCO Residential Settings, please refer to the Non-CMHC POCO Residential Setting Instruction Sheet and Assessment.

# Flow Chart for Determining Assessment/Compliance Responsibility

## Non-POCO Residential Settings

The following flow chart to identify the agency responsible for assessing and ensuring HCBS compliance at the setting, and determine the next action steps.



## AMHH/BPHC DARMHA Application Process

For Non-POCO residential settings, the CMHC initiates the following process:

1. The CMHC completes the “Non-POCO Residential Setting Assessment” in its entirety. Once the form is completed it is to be submitted to the DMHA SET for a compliance designation.
2. The CMHC selects “Non-POCO Residential Setting” in the “Current Living Situation” section of the member’s application for AMHH or BPHC in DARMHA, as shown below, and submits the application in DARMHA.
3. Residential Setting Screening Tool- Revised (RSST)- For settings which are not owned, controlled, or operated by a provider of HCBS [a CMHC or an approved provider of 1915(c) Medicaid waiver services], In Section 4 of the RSST, select the corresponding residential type and have the member sign and date the form.

Select here for all identified non-POCO residential settings, regardless of the setting’s compliance designation, and regardless of whether the “Non-POCO Residential Setting Assessment” has been submitted to DMHA.

### Current Living Situation :

#### Community-based Settings:

- Homeless
- Private/Independent Home
- Non-POCO Residential setting
- Non-CMHC POCO Residential setting
- POCO Residential Setting
- Potential Presumed Institutional setting

Note: The DARMHA application may be submitted before the “Non-POCO Residential Setting Assessment” is completed and submitted to DMHA, but the assessment must be submitted within 30 days of the application submission.

## **DMHA Compliance Designations for Non-POCO Residential Settings**

Once the “Non-POCO Residential Setting Assessment” has been received by DMHA, the SET will make one of three possible compliance designations for the setting. The compliance designation is based on the information contained in the assessment and DMHA desk review, and communicated to the CMHC through a “Non-POCO Residential Setting Compliance Designation Report”.

1. "FULLY COMPLIANT": the setting has been determined to meet all of the criteria for a residential setting not owned, controlled, or operated by a provider of HCBS, and is an eligible setting for delivery of AMHH and BPHC services.
2. "POTENTIAL PRESUMED INSTITUTIONAL": the setting has been determined to potentially have one or more qualities of an institution, based on the CMHC assessment and DMHA desk review. DMHA will coordinate with the CMHC to provide technical assistance, including a joint DMHA/CMHC site visit, to determine whether the setting must be referred to CMS for heightened scrutiny in order to become an eligible setting for delivery of AMHH and BPHC services.
3. “NEEDS MODIFICATIONS”: the setting has been determined to need remediation to bring it into compliance with one or more of the requirements of the Final Rule.

For those non-POCO residential settings designated “Needs Modifications”, the CMHC will develop a Setting Operating Authority Setting Action Plan (SOA SAP), to identify and monitor required remediation activities at the setting. Refer to the “DMHA Adult Programs” section of the Statewide Transition Plan for information about developing the SOA SAP.

## **Steps for Completing the Non-POCO Residential Setting Assessment**

The “Non-POCO Residential Setting Assessment” is a separate part of this assessment packet which contains exploratory questions to help CMHCs and DMHA determine whether the setting is fully compliant with the requirements for residential settings not owned, controlled, or operated by a CMHC or is owned, controlled and/or operated by any other provider of HCBS services.

When the setting is not operated by any other provider of HCBS services (DA or DDRS), the assessment must be completed in its entirety. The CMHC staff member completing the assessment MUST do so during an in-person site visit to the setting. That way, staff at the setting can help ensure that the assessment is as accurate as possible, and any areas of ambiguity can be resolved before the assessment is submitted to DMHA at [DMHAAdultHCBS@fssa.IN.gov](mailto:DMHAAdultHCBS@fssa.IN.gov).

### ***Section 1: Setting Identification, Description, and Operation Information***

Enter the following required information:

*CMHC Conducting Assessment*

*Date of Assessment*

*Setting Name*

*Setting Address*

*Setting Operating Authority* (the organization, company, or other entity that operates the setting, and has authority to implement any required remediation at the setting)

*Description of the setting* (type of setting, licensure/certification status, number of residents, type of services provided, etc.)

Answer the three questions:

Was the setting established, or did the setting begin providing services to residents, prior to March 17, 2014?

Is the setting owned, controlled, or operated by a CMHC?

Is the setting an approved provider of 1915(c) Medicaid waiver services? **\*\*If the answer is YES, then the Non-CMHC POCO Assessment process should be followed\*\***

### ***Section 2: Assessment Questions***

Section 2 of the assessment is divided into six subsections (A through F), which correspond to the criteria that a residential setting not owned, controlled, or operated by a provider of HCBS must meet in order to be an eligible setting for delivery of HCBS. Most of the questions are answerable by YES or NO, with N/A (not applicable) as an option for a few questions. ALL of the questions in subsections 2A through 2F must be answered – do not leave any questions blank!

There is a narrative section available for additional information or comments from CMHC or setting staff.

### ***Submitting the Assessment***

Responses to the questions, and any additional comments or information, must be entered (typed) onto the assessment. **Handwritten and/or PDF submissions will not be accepted.** Once completed, the assessment must be emailed (in its original Microsoft Excel format) to the DMHA SET at [dmhaadulthcbs@fssa.in.gov](mailto:dmhaadulthcbs@fssa.in.gov).