

# HCBS Compliance Assessment for NON-POCO RESIDENTIAL SETTINGS

## Information and Instruction Sheet for Providers

This information sheet, 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. 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, which all undergo assessment and compliance monitoring by DMHA. 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
- Sober Living Environments
- Group/boarded homes

### Responsibility for Assessing and Ensuring HCBS Compliance of Non-POCO Residential Settings

1. For residential settings not owned, controlled, or operated by ANY provider of HCBS (DMHA, DA, DDRS), **the CMHC** is responsible for supporting the setting's assessment of the HCBS compliance and for ensuring the Setting Operating Authority (SOA) completes any remediation required to bring the setting into full HCBS compliance. The CMHC is responsible for ongoing monitoring, ensuring for maintenance of HCBS compliance. DMHA is responsible for guiding the assessment process and completing 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 that 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**

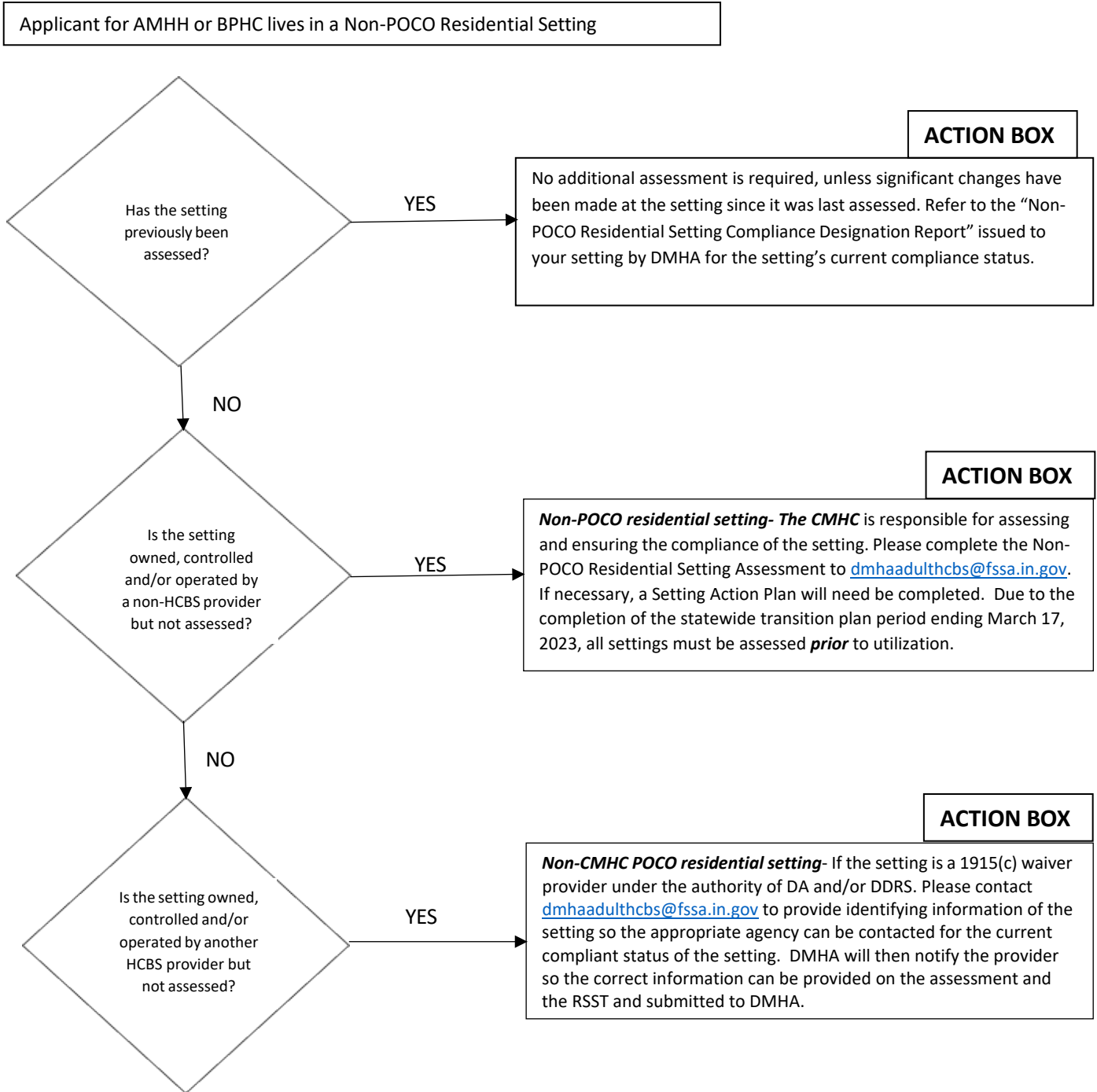
To assist CMHCs in assessing residential settings not owned, controlled, or operated by a CMHC, the assessment process includes a "Non-POCO Residential Setting Assessment", which contains exploratory questions to help CMHCs and DMHA determine the setting's compliance with the Final Rule.

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.

# Flow Chart for Determining Assessment/Compliance Responsibility

## Non-POCO Residential Settings

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



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

Responses to the questions, and any additional comments or information, must be entered (typed) into 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).

### **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 Preliminary 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 Action Plan (SAP), to identify and monitor required remediation activities at the setting. Once a setting has preliminarily been determined to be fully compliant or completed the SAP process, DMHA will conduct an in-person verification site visit that includes resident interviews to complete the assessment process. DMHA will make a final compliance determination based on the information from the setting assessment tool and the in-person site visit combined.