

State of Vermont
Comprehensive Quality Strategy Systemic Assessment

Section III State Standards:
Home and Community Based Services

Specialized Health Population:
Traumatic Brain Injury Services
Global Commitment to Health Managed Care

October 20, 2016

Table of Contents

| | |
|--|----|
| Background | 3 |
| Eligibility and Enrollment | 3 |
| Traumatic Brain Injury Services..... | 3 |
| Vermont Policy Overview..... | 6 |
| Summary and Options for Next Steps..... | 7 |
| Appendix A: HCBS Settings Requirements and Vermont Regulation and Policy Crosswalk..... | 9 |
| Appendix B: Person Centered Planning Requirements and Vermont Regulation and Policy Crosswalk..... | 16 |

Background

On January 10, 2014, the Centers for Medicare and Medicaid Services (CMS) issued final regulations regarding home- and community-based settings (HCBS). The rule supports enhanced quality in HCBS programs, outlines person-centered planning practices, and reflects CMS's intent to ensure that individuals receiving services and supports under 1915(c) HCBS waivers, 1915(k) (Community First Choice), and 1915(i) State Plan HCBS Medicaid authorities have full access to the benefits of community living and are able to receive services in the most integrated setting.

The State of Vermont has been particularly progressive in pursuing a home- and community-based continuum of care that offers meaningful community integration, choice, and self-direction, and strives to promote health, wellness, and improved quality of life. In doing so over the years, the State has used many authorities available under the Medicaid State Plan's rehabilitation option, as well as former 1915(c) waivers and Medicaid Section 1115 Demonstration projects. Additionally, guidance and assurances for home- and community-based care in Vermont are codified in statute or placed in rule. As a result, the term "home and community based" is used in Vermont to represent a broad array of services and supports that may not be typical of 1915(c) populations and CMS rules in other states, but that have been authorized under its Section 1115 Demonstration.

Because of Vermont's public managed care delivery system, the State is integrating person-centered planning and integrated community setting assurances into its Comprehensive Quality Strategy for all Specialized Programs. Regardless of the services that beneficiaries choose, Vermont's values are in alignment with the Federal HCBS values. As such, at its discretion and over time, the State's Comprehensive Quality Strategy (CQS) will review the rules and guidance supporting all Special Health Need Populations served under the Demonstration. The ultimate goal of these efforts is to promote enhanced quality in all services provided in community settings authorized under the State Plan and the Global Commitment Demonstration. This report focuses on the Traumatic Brain Injury (TBI) Services.

Eligibility and Enrollment

Persons may become eligible for participation in the TBI program by meeting traditional Medicaid eligibility rules or long term care eligibility rules, which include HCBS institutional eligibility rules and by also meeting TBI program criteria for enrollment as defined by the Department for Aging and Independent Living. Approximately, 50% of TBI program expenditures for persons whose eligibility is based on HCBS eligibility rules.

Traumatic Brain Injury Services

This program diverts and/or returns Vermonters, with a moderate to severe traumatic brain injury, from hospitals and other out-of-state facilities to a community-based or less restrictive residential setting. The goals of the program are intended to support individuals to achieve their optimum independence at home and help them return to work. Vermont's TBI program contains two components: A recovery oriented and rehabilitative program and a long term support program. A determining factor for acceptance into the TBI includes a person's potential for rehabilitation and

recovery. The primary goal of the program is considered short term in nature. Overtime, it is expected that the services and supports necessary will decrease culminating with graduation from the program. Persons who reach their maximum potential in the rehabilitation program, that are subsequently identified as needing long term services and supports, are considered for transfer into the Choices for Care program. However, if a person does not meet the criteria necessary to receive their long term services and supports from the Choices for Care program, TBI program enrollment is not terminated, the person may be assessed for continuation in the TBI long term care program as openings are available. In State Fiscal Year 2015, the TBI program served 82 individuals, of that group, approximately 27 persons were receiving long term services and support through the TBI program. Currently only 3 people receiving long term service and supports are residing in Residential Facilities and those persons are in the process of transitioning to the Choices for Care Program.

The TBI program includes services and supports provided by private non-profit agencies that specialize in TBI recovery and support throughout the state. Providers must be approved by the TBI program and adhere to certain training, service planning and documentation requirements. All program services are provided in the community. Individual support plans and associated services are highly individualized and based on a variety of functional assessments, the person's medical profile and individual consumer choice about where to receive services.

In most cases, rehabilitative services are provided in the persons own home or family home, however, when this is not possible residential care and supervised living options are available to consumers. All residential settings (3 or more persons) are licensed as Level III or Level IV Residential Care Homes. For persons who receive 1:1 support in supervised living arrangements, the home provider must be working with a host Agency authorized to provide TBI services.

TBI recovery plans may include twenty-four hours a day, seven days a week (24/7) support. An array of services are provided to individuals, as appropriate, in accordance with an individual planning process that results in an Plan of Care. The plan of care is reviewed and approved by TBI Program staff prior to implementation. Services include support for individuals to recover and retain life skills and for maintaining independence, community living, health and safety. For individuals who are not able to return home following their brain injury, residential supports may include the following types of community living and residential arrangements are available.

Supervised Living – These arrangements provide support for persons who require less than 24/7 care and/or supervision during their recovery. Support may be in the persons own home, or in a shared or staffed living situation.

Shared Living – These arrangements provide support to individuals in the home of a contracted home provider. Home providers typically have 24-hour, seven-day-a-week responsibility for the individuals who live with them. Home providers are expected to work closely with the care manager, life skills aid and rehabilitation team to assure care is aligned with rehabilitation goals and objectives. All supervised living arrangements must meet TBI safety and accessibility standards prior to participant placement. Home providers are considered independent contractors with a Host Agency responsible for quality oversight and case management services on behalf of the participant. Home providers do not serve as case managers or guardians for persons in their care.

Staffed Living - These arrangements provide individualized support for one or two persons in a home setting. Home settings are staffed on a full-time basis by paid providers. All staffed living arrangements must meet safety and accessibility standards prior to participant placement.

Residential Facilities - These arrangements require the setting to be licensed by the Division of Licensing and Protection as a Level III or IV Residential Care Home and also approved by the TBI program to accept participants needing recovery or long term support.

Table 1 below provides an overview of the residential arrangements in the TBI program.

Table 1. TBI Residential Settings

| Residential Type | Who controls/owns setting | Regulatory Framework |
|--|---------------------------------|---|
| Supervised Living (1-2 person) | Participant, family or provider | <ul style="list-style-type: none"> • TBI Provider Manual & Agreement • Administrative Rules on Agency Designation |
| Shared Living (1-2 person) | Contracted Home Provider | <ul style="list-style-type: none"> • TBI Provider Manual & Agreement • Administrative Rules on Agency Designation |
| Staffed Living (1-2 person) | Participant, family or Provider | <ul style="list-style-type: none"> • TBI Provider Manual & Agreement • Administrative Rules on Agency Designation |
| Residential Treatment Facility (3 or more persons) | Provider | <ul style="list-style-type: none"> • TBI Provider Manual & Agreement • Residential Care Home Licensing Standards Level III or IV • Therapeutic Community Residence Licensing Standards |

Recovery supports to assist with reentry into the workforce and community are offered to participants in everyday community settings where the participant lives, works and recreates. The TBI Program does not support sheltered workshops or disability-specific day treatment centers. TBI program benefits are outlined in Table 2 on the following page.

Table 2. TBI Program Benefits

| 42 CFR 440.180 HCBS Service | Vermont TBI Benefit Name | Is the Benefit Currently Available In the VT State Plan as a rehabilitative, institutional or other non-HCBS service? |
|--|--|--|
| Case Management | Case Management | No |
| Habilitation | Community Supports (in home, group home or other residence) – Skill acquisition, retention and improvement | Yes (PNMI) Yes (Specialized Rehabilitation Services) |
| Respite | Respite (in home or Nursing Facility) | No |
| Other Cost Effective Alternatives | Crisis Supports | Yes |
| | Environmental and Assisted technology; (home modification, devices and services) | In part as DME |
| | Psychology & Counseling Supports | Yes |
| Expanded Habilitation (Supported Employment) | Supported Employment | No |

Vermont Policy Overview

The TBI program is staffed by 1 FTE at the State who is responsible for determining program eligibility and enrolment, approving providers, reviewing and approving all plans of care. State staff participates in program certification and with individualized rehabilitation and recovery teams. The following documents were reviewed as part of this policy analysis:

- DAIL Residential Care Home Licensing Regulations (October 3, 2000)
- Administrative Rules on Agency Designation (June 2003)
- Licensing and Operating Regulations for Therapeutic Community Residences (January 2014)
- TBI Provider Manual
- TBI Application Package Guidelines and Forms
- TBI Sample Provider Agreement
- TBI Care Conference Minutes Form
- TBI Case Management Reporting Form
- TBI Independent Living Assessment Form
- TBI Individual Service Plan Form
- TBI Life Skills Aide Report Form
- TBI Life Skill Aide Report Weekly Form
- TBI Quarterly Report Form

Appendix A and B provide a more detailed crosswalk of Vermont policy documents to the federal HCBS rules. Elements responsive to federal rules were scored using the following categories:

- Alignment: State policy documents show alignment with federal rules.
- Partial: State policy documents show general alignment with federal rules, but lack specificity.
- Silent: State policy documents do not mention specific terms contemplated in federal rule.
- Non-Comply: State policy documents are in conflict with the terms contemplated in federal rule.

A brief summary of findings is provided below.

The TBI program is focused on medical rehabilitation and recovery. Guidelines, assessments and forms supporting the TBI program focus on skill building in areas such as speech, communication, cognitive skills, daily living skills, employment, mobility and progress towards rehabilitative goals. Documents used to approve program eligibility for the TBI program clearly indicate that the consumer has choices in where to receive services and program staff provides the individual with a list of recommended providers based on their medical/recovery profile. The consumer information package further encourages an in-person interview and outlines items for the consumer to consider in interviewing and choosing a provider. Additionally, various case planning forms and meeting note formats indicate that state has as expectation consumer involvement in all processes. Meeting notes require that a consumer documents their approval with a signature. Processes are required to be person centered. However, written guidance that explicitly outlines elements of person centered planning, beyond functional assessments and rehabilitative goals do not currently exist. There are no statements of participant's rights, sample chart audit tools, or sample agreements that provide examples of best practice in person-centered planning as contemplated in the federal HCBS rule. Along these lines, standards for service and provider agreements do not differ between the rehabilitation program and the long term services and support program. Standards that outline expectations for transitional planning and continuity of care are not documented. Setting characteristics are guided by licensing and provider approval processes.

Summary and Options for Next Steps

Currently, the TBI program is overseen by one FTE State staff that is responsible for all aspects of approval, care planning and auditing. No specific staff manual or survey tools exist for audits and provider oversight. Provider reporting is focused progress on rehabilitation plan goals and objectives and updates in functional assessments specific to each individual participant. Provider reporting does not include written documentation of all aspects of person-centered planning and enrollee decision making as defined in federal HCBS rules.

The State could consider merging the TBI program with the Choices for Care program. Standards and quality oversight relevant to both populations (e.g., conflict of interest, person centered planning, case management, universal provider standards, quality reviews) could be unified, while specialty specific guidelines (e.g., enrollee eligibility, staff training, provider certifications, etc.) for persons with TBI could be maintained. Alternatively, the State could maintain separate operational structures and adopt written documentation and audit tools that support the highly unique nature of TBI recovery and rehabilitative settings on balance with those persons who may need long term services and supports in a setting outside of their home.

A preliminary list of options for enhancing quality oversight and providing more specific and direct guidance related to State and federal values and rules is provided in Table 3 on the following page. This list should not be considered exhaustive; more extensive stakeholder engagement may yield additional opportunities for ongoing quality assessment and improvement.

Table 3 Preliminary List of Options for Quality Assessment and Improvement

| Preliminary List of Options for Quality Assessment and Improvement | |
|--|--|
| Potential Next Steps | Considerations |
| Revise Residential Licensing Regulations to include more detailed standards related to specific setting characteristics | <ul style="list-style-type: none"> Regulations define State expectations for all settings regardless of type Licensing reapplications are required annually Revisions may also impact providers not involved with the TBI Medicaid program Regulation changes do not guarantee quality monitoring and improvement processes Regulatory revision process may be time consuming and delay implementation of desired provider change |
| Merge program requirements with Choices for Care program standards, using relevant oversight standards and tools for program oversight while maintaining TBI specific expertise and protocols. | <ul style="list-style-type: none"> TBI audits may require more resources if content is expanded TBI Training requirements may need to be enhanced to include enhanced standards |
| Enhance current TBI provider standards to include more specific data reporting requirements; data that illustrates provider adherence to HCBS and VT regulations | <ul style="list-style-type: none"> Standards could include examples that align with federal language in addition to those Vermont specific protections Providers could engage in data reporting on targeted HCBS characteristics through quarterly and annual reporting |
| Conduct periodic consumer and stakeholder surveys to assess provider adherence to specific standards | <ul style="list-style-type: none"> Consumer self-report could allow for more direct and targeted quality improvement Stakeholders could include family members, legal guardian, and ombudsmen reports |
| Create written audit and provider approval guidelines that include details regarding person-centered planning and HCBS settings characteristics | <ul style="list-style-type: none"> Audits may require more resources if content is expanded |
| Include enhanced data collection in the new HSE/MMIS IT structure, especially as it relates to collecting care plan and settings information | <ul style="list-style-type: none"> Current AHS plans to update its IT structure provide an opportunity for TBI to define information needed to augment current provider performance and quality monitoring |
| Update or create tools and guidance that support desired characteristics such as: <ul style="list-style-type: none"> Sample supervised or group living agreements; participant rights statements Create participant handbooks that remind enrollees of their rights Add prompts and instructions to the ILA and Care Plan reporting forms that specifically remind people to ask about and document decisions regarding door locks, room décor, access to food, and other accommodations outlined in the federal rule | <ul style="list-style-type: none"> Revising current materials would provide ongoing access to clear examples of State expectations |

Appendix A: HCBS Settings Requirements and Vermont Regulation and Policy Crosswalk

| HCBS Settings Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|--|--|--|
| 42 CFR HCBS Requirement HCBS Setting Requirements | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| <p><u>1. Commensurate with a persons individualized plan, needs and abilities</u> -</p> <p>The setting is integrated in and supports full access to community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving HCBS</p> | <p>TBI Provider Manual Sec I, Sec III, Sec. V TBI Application Release & Consent Residential Care Home Licensing Regulations Sec. 6</p> | <ul style="list-style-type: none"> TBI application materials and provider manual provide that persons receive services in settings of their choice, commensurate with their abilities and person-centered plans. ILA guidelines require planning, goals and objectives that support the recipient recovering skills needed to engage in their everyday community life and routines. Planning is based on functional assessments, personal choice in settings and reflect a person’s medical needs, abilities, and preferences. VT does not fund segregated work environments. Community supports are individualized and not center based. The Residents’ Rights section of the Residential Care Home Licensing Standards includes an emphasis on individuality and community participation. | <p>Partial Rehabilitation services assume community living; guidelines are silent on long term services and supports program</p> | <p>Partial Rehabilitation services assume community living; guidelines are silent on long term services and supports program</p> |
| <p>2. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified, documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board</p> | <p>TBI Provider Manual Sec I, Sec III, Sec. IV TBI Application Release & Consent</p> | <ul style="list-style-type: none"> TBI guidelines provide that persons receive information on all options available to support community living. The participants makes the final decision on where and how to receive recovery services. Residential Care Home regulations require room and board agreements. Agencies are expected to be community providers with a specialized rehabilitation services specific to TBI recovery. For out of home settings, room and board is expected to be paid by the recipient. | <p>Alignment</p> | <p>Alignment</p> |
| <p>3. Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint</p> | <p>Residential Care Homes Licensing Regulations Sec. 5.14, Sec. 6 Administrative Rules on Agency Designation Sec 4.13 Therapeutic Community</p> | <ul style="list-style-type: none"> Regulations require processes to prevent and address abuse, neglect, and exploitation. Supervised living arrangements are supported through Designated and Specialized Agencies | <p>Alignment</p> | <p>Alignment</p> |

| HCBS Settings Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|--|--|------------------|
| 42 CFR HCBS Requirement HCBS Setting Requirements | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| | Residence Licensing Regulations Sec. 5.5, 5.17, VI | | | |
| 4. Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact | TBI Provider Manual Sec I, Sec III, Sec IV Residential Care Home Licensing Regulations Sec. 1.1; 5.5(b); 5.10 (e) (2) Sec. 6. Therapeutic Community Residence Licensing Regulations Sec. 5.5, 5.6, 5.17, VI | <ul style="list-style-type: none"> TBI rehabilitation program is designed to support recovery and skill building based on a person’s daily routine, social, recreational and work environments. Residential Care Home Participants’ Rights include life choices such as the right to visitors and the right to refuse visitors, as well the right to a phone and mail, and the right to leave the residence and be gone for more than 24 hours at any given time. Residential Care Home licensing regulations require settings to promote personal independence in a home-like environment; respect dignity, accomplishments, and abilities; and encourage participation in own ADL’s, care planning, and self-administration of medication for persons who are capable. Participants have the right to refuse any services or activities offered, to administer their own medications when they possess the desire and capability Therapeutic Community Residence are transitional in nature and provide all-inclusive services with the primary goal of stabilizing crisis and providing life skills training and other recovery services needed to assist in community re-entry. | Alignment | Alignment |
| 5. Facilitates individual choice regarding services and supports, <i>and who provides them</i> | TBI Provider Manual Sec I, Sec III, TBI Application Release & Consent Administrative Rules on Agency Designation: Sec 4.13 | <ul style="list-style-type: none"> All participants choose where and how to receive their TBI services and supports. Participants who require a supervised living arrangement receive case management from a host agency. The host agency is responsible for creating the rehabilitation plan and providing life skills aides and other services (e.g. OT/PT/SLP) as needed. The host agency is responsible for oversight of the home provider and the care plan and following up on any client concerns with the home, plan, or other services. | Alignment | Alignment |
| 6. (a) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally | Residential Care Home Licensing Regulations Sec. 4.3 (b), (d), (e) | <ul style="list-style-type: none"> Residential Care Home agreements must include specific provisions with regards to occupancy, voluntary and involuntary termination of placement (30-day), and notice of any changes in rates, physical plant, | Silent (Shared living agreement standards do not exist) | Alignment |

| HCBS Settings Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|---|------------------|------------------|
| 42 CFR HCBS Requirement HCBS Setting Requirements | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| <p>enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity.</p> <p>(b) For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document <i>provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</i></p> | <p>Sec. 5.2 (a-d), 5.3 (a), (e- h) Sec. 6.14</p> <p>MCO Grievance and Appeal Rules</p> <p>Therapeutic Community Residence Licensing Regulations Sec 5.2, 5.4,</p> | <p>policies, or other services (90-day).</p> <ul style="list-style-type: none"> Model agreements or guidelines do not currently exist for community living arrangements TCR regulations require written admission agreements and that outline services to be provided, rate to be charged, and all other financial issues including discharge and transfer status and financial implications. Treatment facilities are anticipated to be transitional in nature based on the individual treatment plan goals and objectives. TCR's must give participants 30 day written notice of any change in rates or services. Discharges are individually planned based on treatment plan goals and participant needs. | | |
| <p>7. Each individual has privacy in their sleeping or living unit</p> | <p>TBI Provider Manual Sec V. Residential Care Home Licensing Regulations Sec. X. 9.2(e-g) Therapeutic Community Residence Licensing Regulations Sec. 9.1</p> | <ul style="list-style-type: none"> Supervised Living arrangements are expected to include private rooms, unless the participant agrees otherwise. Residential Care Home and TCR Licensing standards allow for private or semi-private rooms. Residents must not be required to pass through other bedrooms to reach their room, and assigned bedrooms are only to be used as personal sleeping and living quarters of the assigned resident (s). | Alignment | Alignment |
| <p>8. Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors</p> | <p>Residential Care Home Licensing Regulations Sec. IX Therapeutic Community Residence Licensing</p> | <ul style="list-style-type: none"> TBI guidance for out of home settings does not indicate who has keys. Residential Care Home and TCR Licensing standards do not specify lockable units. | Silent | Silent |

| HCBS Settings Requirements: VT Policy Assessment | | | Policy Alignment | |
|---|--|---|---|--|
| 42 CFR HCBS Requirement HCBS Setting Requirements | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| | Regulations Sec. 9.1 | | | |
| 9. Individuals sharing units have a choice of roommates in that setting | TBI Provider Manual Sec V. | <ul style="list-style-type: none"> Provider Manual states that participants are expected to have private rooms unless the participant agrees otherwise. Participants review and interview all persons in potential setting prior to deciding on final option. | Alignment | Alignment |
| 10. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement | TBI Provider Manual Sec V Residential Care Home Licensing Regulations Sec. IX | <ul style="list-style-type: none"> Guidelines do not specify décor standards Residential Care Level III and TCR licensing standards do not specify standards for room décor | Silent | Silent |
| 11. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time | TBI Provider Manual Sec I, Sec III, Sec. IV. VII Residential Care Home Licensing Regulations Sec. 7.1 (c)(4) Therapeutic Community Residence Licensing Regulations Sec. 5.5, 5.7, 6.17, 6.20, 7.1 | <ul style="list-style-type: none"> TBI rehabilitation program is designed to support recovery and skill building based on a person's daily routine, social, recreational and work environments. TBI program standards require that participants are actively engage in outlining their schedule and daily routines weekly. Residential Care Level III licensing standards provide for alternative meals on request but do not specify 24/7 access to food. Residential Care Home Regulations provide that facilities that do offer common kitchens must make them available for participant use at all times. TCR standards provide that participants have responsibility for themselves and in deciding what activities and/or daily schedules to engage in during their stay. TCR's must provide alternative meal options upon request. | Partial Standards are silent on 24/7 access to food. | Partial Residential Care Homes offer meal plans and are required make options available as requested by participants. Regulations are silent on 24/7 access |
| 12. Individuals are able to have visitors of their choosing <i>at any time</i> | Residential Care Home Licensing Regulations Sec. 6.5 Therapeutic Community Residence Licensing Regulations Sec 6.5 | <ul style="list-style-type: none"> Residential Care Homes and TCR's must provide for private communications and allow visitors at least from 8 am to 8 pm or longer, and residents may make other arrangements with the home for visitors; residents are allowed to refuse any visitor. TBI rehabilitation program is designed to support recovery and skill building based on a person's daily routine, social, recreational and work environments. | Silent | Partial Residential Care Home Licensing regulations outline minimum standards (e.g., 8 am to 8 pm) not maximum |

| HCBS Settings Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|---|--|------------------|------------------|
| 42 CFR HCBS Requirement HCBS Setting Requirements | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| | | <ul style="list-style-type: none"> TCR's cannot restrict a person's choices in visitors unless restrictions are court ordered. TBI Long Term Care Services and Support Program does not include specific standards for persons who cannot return to their daily routine or family living | | |
| 13. The setting is physically accessible to the individual | DAIL Housing Safety and Review Process Residential Care Home Licensing Regulations Sec. 9.5 Administrative Rules on Agency Designation Sec. 4.12 Therapeutic Community Residence Licensing Regulations Sec. 9.5 | <ul style="list-style-type: none"> Safety and Accessibility Inspections are required of all settings. In addition, the DD Act also requires geographic accessibility of services. | Alignment | Alignment |
| 14. Modification to HCBS Settings Requirements Restrictions of rights and/or restrictive practices are not contemplated in program guidance | | | | |
| (a) Identify a specific and individualized assessed need for modification | | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not contemplated in the TBI program Changes in setting, diet, or activity plans in licensed residential care home are made with the input of the physician, participant and legal guardian, and/or team members of the participants choosing. | Silent | Silent |
| (b) Document the positive interventions and supports used prior to any modifications to the person-centered service plan | | <ul style="list-style-type: none"> Rehabilitation plans are focused in skill building and recovery. Participants in residential care settings are not presumed to meet nursing home level of care, thus no request for variance or additional information is required under regulation for this target group. | Silent | Silent |
| (c) Document less intrusive methods of meeting the need that have been tried but did not work | | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not contemplated in the TBI program | Silent | Silent |
| (d) Include a clear description of the | | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not | Silent | Silent |

| HCBS Settings Requirements: VT Policy Assessment | | | Policy Alignment | |
|---|---|--|------------------|------------------|
| 42 CFR HCBS Requirement HCBS Setting Requirements | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| condition that is directly proportionate to the specific assessed need | | contemplated in the TBI program | | |
| (e) Include a regular collection and review of data to measure the ongoing effectiveness of the modification | | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not contemplated in the TBI program | Silent | Silent |
| (f) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated | | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not contemplated in the TBI program | Silent | Silent |
| (g) Include informed consent of the individual | Therapeutic Community Residence Licensing Regulations Sec. 3.2, 5.2 | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not contemplated in the TBI program Restrictions of Rights are not allowed in TCR settings without the consent of the individual as part of a participant as part of the admission and/or treatment plan process. | Silent | Silent |
| (h) Include an assurance that interventions and supports will cause no harm to the individual | | <ul style="list-style-type: none"> Restriction of rights and/or restrictive procedures are not contemplated in the TBI program | Silent | Silent |

Appendix B: Person Centered Planning Requirements and Vermont Regulation and Policy Crosswalk

| Person-Centered Planning Process Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|--|---|---|
| 42 CFR HCBS Requirement - Person Centered Process | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| 1. Includes people chosen by the individual and led by person or legal rep where possible | Administrative Rules on Agency Designation Sec 4.9; 4.13 Therapeutic Community Residence Licensing Regulations Sec. 5.7 | <ul style="list-style-type: none"> TBI manual and forms indicated that the consumer is involved in all aspects of planning commensurate with their medical profile and abilities; no specific guidelines exists related to choice of team members For host agencies that are also Designated and Specialized Service Agencies under administrative rule all planning must include the consumer and include persons of their choosing. TCR Standards provide that the person and any identified support people are involved in planning. | Partial Guidance for Non-DA/SSA programs is missing | Partial Guidance for Non-DA/SSA programs is missing |
| 2. Provides necessary information and support to ensure that the individual directs the process to the maximum extent possible, and is enabled to make informed choices and decisions | Administrative Rules on Agency Designation Sec 4.9; 4.13 Therapeutic Community Residence Licensing Regulations Sec 5.2, 5.5, VI | <ul style="list-style-type: none"> For host agencies that are also Designated and Specialized Service Agencies under the administrative rule all planning must involve and support informed decision making by the consumer and include persons of their choosing. TCR standards require informed consent and decision making. | Partial Guidance for Non-DA/SSA programs is missing | Partial Guidance for Non-DA/SSA programs is missing |
| 3. Is timely, occurs at times and locations of convenience to the individual | TBI Provider Manual Sec III, Sec V. | <ul style="list-style-type: none"> TBI ILA and Care planning indicate that the recipient must be involved, but is silent on location and times TBI program oversight includes attention to these details, however guidance is not written. | Silent | Silent |
| 4. Reflects cultural considerations of the individual and is conducted by providing information in plain language and accessible to individuals with disabilities and persons who are limited English proficient | Administrative Rules on Agency Designation Sec 4.9 AHS Policy on Limited English Proficiency Therapeutic Community Residence Licensing Regulations Sec VI | <ul style="list-style-type: none"> For host agencies that are also Designated and Specialized Service Agencies under the administrative rule all planning must involve and support informed decision making by the consumer and include persons of their choosing. All units of government within the Agency of Human Services and contractors are also required to follow the Agency's policies and practices on assuring services are provided in an accessible manner for participants who have Limited English Proficiency. | Alignment | Alignment |
| 5. Includes strategies for solving conflict or disagreement within the | TBI Provider Manual Sec III, Sec IV, TBI Provider Agreement | <ul style="list-style-type: none"> TBI manual requires that providers will develop processes and policies to handle complaints TBI provider agreement requires that agencies provide information and access | Partial Guidance does not include Conflict of Interest policies | Partial Conflict of interest guidance could be |

| Person-Centered Planning Process Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|--|--|--|
| 42 CFR HCBS Requirement - Person Centered Process | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| process, including clear conflict-of-interest guidelines for all planning participants | MCO Grievance and Appeal Rules Residential Care Home Licensing Regulations Sec V 5.19, VI, XI Therapeutic Community Residence Licensing Regulations Sec 5.2 | to ombudsman services when needed and/or requested <ul style="list-style-type: none"> The TBI grievance and appeal process requires adherence to Medicaid Managed Care grievance and appeal rules under the GC demonstration. All TCR's must provide written information and access to health care ombudsmen and protection and advocacy groups such as the mental health law project. | | strengthened due to the all-inclusive nature of these services. |
| 6. Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan, <u>except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area also provides HCBS.</u> In these cases, the State must <u>devise conflict of interest protections including separation of entity and provider functions within provider entities,</u> which must be approved by CMS. Individuals must be provided with <u>a clear and accessible alternative dispute resolution</u> | Administrative Rules on Agency Designation Sec. 4.15 MCO Grievance and Appeal Rules | <ul style="list-style-type: none"> Participants choosing supervised living receive case management from a host agency. The host agency is responsible for facilitating an acceptable match of supervised living setting, contracting with the home provider on the participant's behalf, and developing the rehabilitation plan. The host agency is responsible for oversight of the care plan and following up on any client concerns with the home, plan, or other services. The TBI grievance and appeal process requires adherence to Medicaid Managed Care grievance and appeal rules under the GC demonstration. Case Managers cannot be financially responsible or related to the person. Community Living providers cannot serve as case managers. | Partial Guidance does not include Conflict of Interest policies | Partial Conflict of interest standards could be strengthened due to the all-inclusive nature of these services. |

| Person-Centered Planning Process Requirements: VT Policy Assessment | | | Policy Alignment | |
|---|---|---|---|---|
| 42 CFR HCBS Requirement - Person Centered Process | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| <i>process</i> | | | | |
| 7. Offers informed choices to the individual regarding the services and supports they receive and from whom | TBI Provider Manual Sec III; TBI Application Administrative Rules on Agency Designation Sec 4.9; 4.13; 4.14 | <ul style="list-style-type: none"> TBI participants chose where to receive based on their medical profile and rehabilitation needs Choice and consumer participation in the person-centered planning process is required for Designated and Specialized Service agencies. | Alignment | Alignment |
| 8. Includes a method for the individual to request updates to the plan as needed | TBI Provider Manual Sec IV, V, VI | <ul style="list-style-type: none"> Plans must update every six months and reviewed quarterly in the rehabilitation program and annually in the long term services and support program. Active involvement of the participant in monthly meetings is expected. Monthly meetings include review of plans and any request for updates. | Partial Monthly meeting expectations could be stronger | Partial Monthly meeting expectations could be stronger |
| 9. Records the alternative home- and community-based settings that were considered by the individual | TBI Provider Manual Sec II, III TBI Application | <ul style="list-style-type: none"> Recommended settings provided to the participant in writing as part of the planning process | Alignment | Alignment |
| 10. Reflect that the setting in which the individual resides is chosen by the individual. | TBI Provider Manual Sec II, III TBI Application | <ul style="list-style-type: none"> Participants make final choice of settings as documented in the application and care planning process. | Alignment | Alignment |
| 11. Reflect the individual's strengths and preferences | Administrative Rules on Agency Designation Sec 4.9; 4.13; 4.14 TBI Provider Manual Sec II, III TBI Application | <ul style="list-style-type: none"> Regulation and certification standards provide for participants' choice, strengths, and preferences and informed decision making. Application and assessment guidelines support documentation of all strengths and needs. | Alignment | Alignment |
| 12. Reflect needs identified through functional assessments | TBI Provider Manual Sec II, III TBI Application | <ul style="list-style-type: none"> TBI guidelines provide for service and person-centered plans to be based on functional assessments, strengths, preferences, and supports that maximize independence. | Alignment | Alignment |
| 13. Include individually | TBI Provider Manual | <ul style="list-style-type: none"> Guidelines provide for service and person-centered plans to be based on | Alignment | Alignment |

| Person-Centered Planning Process Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|--|------------------|------------------|
| 42 CFR HCBS Requirement - Person Centered Process | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| identified goals and desired outcomes | Sec II, III TBI Application | functional assessments, strengths, preferences, and supports that maximize independence. <ul style="list-style-type: none"> TBI care plans support the identification of individually identified goals and desired outcomes. | | |
| 14. Reflect the services and supports (paid and unpaid) that will assist the individual to achieve identified goals, and the providers of those services and supports, including natural supports | TBI Provider Manual Sec II, III TBI Application | <ul style="list-style-type: none"> TBI guidelines call for plans to reflect all goals, actions steps, persons responsible (paid and unpaid), and target dates. | Alignment | Alignment |
| 15. Reflect risk factors and measures in place to minimize them, including individualized back-up plans and strategies when needed. | | <ul style="list-style-type: none"> Crisis services and proactive plans are part of the service package however specific guidelines for back-up plans, creating negotiated risk agreements and crisis plans do not exist. | Silent | Silent |
| 16. Be understandable to the individual receiving services and supports, and the individuals important in supporting him or her (written in plain language and in a manner that is accessible to individuals with disabilities and persons who are limited English proficient) | AHS Limited English Proficiency Policy Administrative Rules on Agency Designation Sec 4.9 Therapeutic Community Residence Licensing Regulations Sec. 6.26, 6.27 | <ul style="list-style-type: none"> For Designated and Specialized Agency hosted programs, administrative rules require plans be written in plain English and are accessible based the unique needs and abilities of the consumer. All units of government within the Agency of Human Services are also required to follow the Agency's policies and practices on assuring services are provided in an accessible manner for participants who have Limited English Proficiency. | Alignment | Alignment |
| 17. Identify the individual and/or entity responsible for monitoring the plan | TBI Provider Manual Sec V | <ul style="list-style-type: none"> The TBI case management standards require the case manager to monitor all plan activities and progress. | Alignment | Alignment |
| 18. Be finalized and agreed to, with the informed consent of the individual in writing, | TBI Provider Manual Sec II, III Administrative Rules on | <ul style="list-style-type: none"> All plans require participant and/or guardian agreement prior to implementation. | Alignment | Alignment |

| Person-Centered Planning Process Requirements: VT Policy Assessment | | | Policy Alignment | |
|--|--|---|---|---|
| 42 CFR HCBS Requirement - Person Centered Process | TBI Policy, Rules, Guidelines | VT Statutory or Policy Guidance | Community Living | Residential Care |
| and signed by all individuals and providers responsible for its implementation | Agency Designation Sec 4.9; 4.13; 4.14 | | | |
| 19. Be distributed to the individual and other people involved in the plan | TBI Provider Manual Sec II, III | <ul style="list-style-type: none"> Guidelines indicate plans should be kept on file, but are silent on how copies are distributed | Silent | Silent |
| 20. Include those services, the purpose or control of which the individual elects to self-direct | N/A | <ul style="list-style-type: none"> Self-direction is not an option in the TBI program | N/A | N/A |
| 21. Prevent the provision of unnecessary or inappropriate services and supports | TBI Provider Manual Sec IV, V | <ul style="list-style-type: none"> Funding decisions and final approval by TBI State staff include a review to ensure services are coordinated and responsive to the individual's needs and are not duplicative or unnecessary. All TBI services require prior authorization | Alignment | Alignment |
| 22. The person-centered service plan must be reviewed, and revised upon reassessment, at least every 12 months, when the individual's circumstances or needs change significantly, or at the request of the individual | Residential Care Home Licensing Regulations Sec. 5.7, 5.9(c) | <ul style="list-style-type: none"> TBI guidelines require reviews quarterly in the in the rehabilitation program and annually in the long term service and supports program. Active involvement of the participant in monthly meetings is expected. Monthly meetings include review of plans and any request for updates. | Partial Monthly meeting expectations could be stronger | Partial Monthly meeting expectations could be stronger |