



Department of Medicaid

John R. Kasich, Governor

John B. McCarthy, Director

CMS HCBS Statewide Transition Plan

Summary of Public Comment and
Changes as a Result of Public Comment

March 13, 2015



Summary of Changes Made

1. The plan was modified to specify how individuals receiving HCBS services will be involved in the assessment and ongoing monitoring processes of settings where they receive service.



Summary of Changes Made, con't

- Specified that individuals have been, and will continue to be, included in the rule development process.
- Specified that individuals will contribute to establishing standards for evidence of compliance with the proposed HCBS setting rule.
- Specified individuals' experiences with community inclusion will be a component of the on-site assessments for settings that may have the effect of isolation from the broader community.
- The Long Term Care Consumer Guide Resident Satisfaction Survey will be used to assess individuals' setting-specific experience with community inclusion.



Summary of Changes Made, con't

2. The plan was modified to reflect that a determination of whether a setting possesses the HCBS characteristics will be made based upon the on-site evaluation and acknowledges that integration is a product of individual experiences rather than a physical location.



Summary of Changes Made, con't

- Clarified that no setting has been determined to be unable to comply at this time.
- Referenced strategies to be used to validate the self-assessments completed by providers, including comparisons with outcomes of monitoring and compliance reviews as well as on-site evaluations.
- Included a description of the on-site evaluation process at the request of stakeholders.
- Noted that the process will focus on the experience of individuals served, rather than physical structures or the location of the setting.



Summary of Changes Made, con't

3. The plan was modified to eliminate the reference to settings “presumed to have the qualities of an institution” to those presumed to have the “effect of isolating individuals.”



Summary of Changes Made, con't

- Determined assisted living and/or adult day health settings located on the campus of a private continuing care retirement community will be included in the “meets with modifications” category.
- In the event of relocation, a relocation team led by the State Long-Term Care Ombudsman or the County Board of Developmental Disability, will lead the relocation team to assist individuals choosing to transition to a setting of their choice, which meets the HCBS characteristics.



Summary of Changes Made, con't

- Modified the setting types to remove references to “group home with four or more individuals, disability-specific farm, cul-de-sac of group homes, and campus settings.” The setting types now refer to “settings specifically designed for people with disabilities” and “settings designed to provide people with disabilities multiple types of services on-site.”
- In the event of a relocation, specified individuals may continue to receive HCBS from either their current providers or another provider of their choosing.



Summary of Changes Made, con't

4. The plan was modified to address technical changes and provide administrative efficiencies.



Summary of Changes Made, con't

- Removed the initial assessment requirement for the settings that meet with modifications.
- Eliminated multiple OAC rule revisions by modifying existing provider oversight processes to ensure ongoing compliance.
- Aligned implementation timelines to be consistent with CMS' approval of the transition plan.
- Incorporated the results of additional gap analysis and updated data.
- Corrected numbers/percentages of settings in various categories upon discovering an error in the calculation.
- Adjusted timelines, where necessary, to allow adequate time for rule development and/or waiver amendments.



Summary of Recommendations that Did Not Result in Changes to the Plan



Public Comment with No Change

1. Adopt new language that maintains congregate settings as viable, creative “solutions of choice.”

- **Rationale:** All settings where HCBS are provided, and the state receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services.

2. Formal recognition of the legal rights of parents/legal guardians in the entire process .

- **Rationale:** All settings in which individuals receive HCBS are provided, and the state receives Medicaid funding from the federal government, must comply with the federal regulation, whether they are selected by the individuals or chosen another legally responsible party on the individual’s behalf .



Public Comment with No Change, con't

3. Recognize the accumulated experience, insight, and inherent authority of the State Legislature in the process .

- **Rationale:** The plan was developed with the input of a broad cross-section of stakeholders, including State legislators who submitted comments.

4. Retain the current non-residential integrated day and employment services model .

- **Rationale:** Prevocational services will continue to be available for individuals who need them. However, in accordance with the new rules, all HCBS waiver settings must be integrated in and support full access to the broader community. Nothing in this transition plan either limits access, isolates individuals from other individuals with disabilities, or requires individuals to work.



Public Comment with No Change, con't

5. Exclude specific settings from either being subject to the heightened scrutiny process or being given the opportunity to furnish evidence of compliance with the regulation.

- **Rationale:** No setting has been determined to be unable to meet the HCBS characteristics specific in the rule at this time. The plan currently outlines strategies for assessing any specific settings that may have the effect of isolating individuals from the broader community.

6. Provide adequate funding, training, and staffing to implement the changes.

- **Rationale:** These issues are typically addressed through the state's budget process.



Public Comment with No Change, con't

7. Retain flexibility and choice of settings options, based on individuals' person-centered plans.

- **Rationale:** All settings where HCBS are provided, and the state receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services.

8. Age-restricted admission policies create segregated settings.

- **Rationale:** All settings where HCBS are provided, and the state receives Medicaid funding from the federal government, must comply with the federal regulation. The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals from the broader community.