



**District of Columbia Plan to Comply with  
New Federal Home and Community Based Services Requirements**

**Section I: Purpose**

The Centers for Medicare and Medicaid Services (CMS) issued a final rule effective March 17, 2014, that contains a new, outcome-oriented definition of home and community-based services (HCBS) settings. The purpose of the federal regulation, in part, is to ensure that people receive Medicaid HCBS in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as people who do not receive HCBS. CMS expects all states to develop an HCBS statewide transition plan that provides a comprehensive assessment of potential gaps in compliance with the new regulation, as well as strategies, timelines, and milestones for becoming compliant with the rule's requirements. CMS further requires that states seek input from the public in the development of this transition plan.

The District maintains two HCBS waiver programs: the Elderly and Persons with Disabilities (EPD) Waiver, run by the District's Department of Health Care Finance (DHCF), and the Intellectual and Developmental Disabilities (IDD) waiver, run by the District's Department of Disability Services (DDS). The EPD waiver program is for the elderly and individuals with physical disabilities who are able to safely receive supportive services in a home and community-based setting. The IDD waiver program provides residential, day/vocational and other support services in the community for District residents with intellectual and developmental disabilities.

Below is the District of Columbia's Statewide Transition Plan for the HCBS waiver services. (The IDD Waiver-specific details are located in Appendix 1 and are incorporated by reference to this Statewide Transition Plan.) This plan is posted in its entirety on the Department of Health Care Finance (DHCF) website at [www.dhcf.dc.gov](http://www.dhcf.dc.gov). DHCF encourages public input and comments on the plan, and will have a thirty (30) day public comment period that closes March 13, 2015 and one public forum in which DHCF will explain the transition plan and receive oral or written comments. DHCF will review all comments, incorporate appropriate suggestions and summarize the changes made to the transition plan in response to the public comment. DHCF will also post a summary of public comments and responses on its website.

The public forum is scheduled at the DC Department of Health Care Finance at 441 4<sup>th</sup> St, NW, Washington DC, 20001 on Tuesday, February 17, 2015, at 4 pm in the Main Street conference

room (North Building, 10<sup>th</sup> floor). Notice of the public forum is posted on DHCF's website and has been disseminated via email to individuals and stakeholder organizations. Written comments on this transition plan may be submitted to Trina Dutta, Special Projects Officer, DC Department of Healthcare Finance, 441 4<sup>th</sup> St, NW, 9<sup>th</sup> Floor, Washington DC 20001, or by e-mail at [dhcfpubliccomments@dc.gov](mailto:dhcfpubliccomments@dc.gov), during the thirty (30) day public comment period closing Friday, March 13, 2015, at 5 pm EST.

You can learn about the new HCBS settings rule at [www.hcbsadvocacy.org](http://www.hcbsadvocacy.org). The website includes links to the CMS rule, webinars, and guidance; information on other states' transition plans; advocacy materials and more.

## **Section II: District of Columbia Initiatives to Increase Opportunities for Community Integration**

### **A. Training and Capacity Building**

The District of Columbia is engaged in a variety of efforts to build capacity across multiple agencies and among our provider community to support the full integration of individuals in need of long term care services and supports into community settings. Listed below are some examples of ongoing initiatives that build capacity and support compliance with the HCBS Settings Rule.

- Funded by a grant from the federal Administration on Community Living (ACL) and the Centers for Medicare and Medicaid Services (CMS), four District agencies (the Department of Disability Services (DDS), the Department of Health Care Finance (DHCF), the Aging and Disability Resource Center (ADRC) within the District of Columbia Office on Aging (DCOA), and the Department of Behavioral Health (DBH)) are collaborating to develop a plan to implement a No Wrong Door (NWD) system to streamline and facilitate access to long term care services and supports (LTCSS). A major emphasis of the District's planning activities is optimizing informed choice and promoting person-centered thinking and planning among District agency staff and service providers. The new system will be supported by a robust information management system that will optimize individual choice, person-centered planning and self-direction, and community integration.
- DHCF has been implementing a multi-year, multi-pronged strategy to reform Medicaid-funded long-term care services and supports. The first phase of this effort focused on the development and implementation of a standardized assessment tool and a conflict-free, face to face assessment process. The tool is designed to assess an individual's needs across multiple domains, rather than determining eligibility for a particular service or service setting. The tool provides the individual with a score that allows them to choose from a range of LTCSS options.

- DHCF and DCOA recently entered into Memoranda of Understanding designed to increase collaboration between DHCF and DCOA and strengthen the role of DCOA in providing choice counseling and application assistance to District residents and their families who are seeking LTCSS.
- DHCF is working to increase access to home and community-based services. Specifically, DHCF has been working to obtain approval of a new 1915(i) State Plan Amendment to establish an adult day health program. As detailed below, DHCF is also working on amendments to the EPD waiver to strengthen waiver offerings and is modernizing business process workflows to facilitate the waiver application process.
- DHCF, working in conjunction with CMS consultants, on January 21, 2015 hosted an in-service on person-centered planning for DHCF stakeholders, and will continue to work with the TA providers both for planning and training purposes addressing person-centered planning and conflict-free case management. These trainings will focus on DCOA staff and DHCF staff, as well as Medicaid case managers and other staff and stakeholders in the community. The consultants will work with DHCF staff to develop a Community of Practice for DC Medicaid case managers focused on supporting and facilitating greater individualized community exploration and integration. The Community of Practice will allow for multi-directional training and information sharing: from District government to case managers; from case managers to District government; and amongst case managers. This Community of Practice will launch in Fall 2015.
- DHCF has engaged District staff, community stakeholders, and Medicaid service providers on the HCBS settings rule, with five trainings held in January 2014 (DHCF internal staff including the Executive Management Team), February 2014 (EPD Waiver Providers), April 2014 (EPD Waiver and Adult-Day Providers), November 2014 (Adult-Day Providers); and January 2015 (HCBS Stakeholders Group).

## **B. DHCF Waiver and State Plan Amendment Activities**

In addition to DHCF's ongoing commitment to training and capacity building, DHCF is in the process of making changes to its 1915(c) and 1915(i). Listed below are examples of changes that support and facilitate greater individualized community exploration and integration.

### *EPD Waiver Amendment*

DHCF is in the process of drafting an amendment to its EPD Waiver, with plans to submit this to CMS by May 15, 2015. The Department is revising its service descriptions for assisted living, homemaker, chore aide, personal care aide, participant directed services, case management, and environmental access adaptation services in order to better support and facilitate greater

individualized community exploration and integration. In particular, the assisted living service description will incorporate specific requirements about the HCBS settings rule (including requirements around provider self-assessment of compliance), and the case manager service description will include mandatory assessment of settings relative to the HCBS rule. For all services, DHCF is revising the associated outcomes measures, as well, which will include measures related to supporting and facilitating greater individualized community exploration and integration. DHCF is also including provisions to increase the array of sanctions that DHCF may impose if a provider is out of compliance with one or more standards. DHCF will provide opportunity for a 30-day public comment period and will host at least one public meeting to explain the EPD Waiver Amendment in plain language and answer any questions. DHCF will notify the public of the 30-day public comment period and the public meeting(s) by via notice in the DC Register in mid-March 2015.

### *DHCF State Plan Amendment*

DHCF has been working to obtain approval of a new 1915(i) State Plan Amendment to establish an adult day health program (ADHP). ADHPs provide essential services including social service supports, therapeutic activities meals, medication administration, and transportation to therapeutic activities for adults, age fifty-five (55) and over, during the day, in a safe community setting outside of their home. All ADHP providers will be compliant with the HCBS settings rule from launch of the 1915(i).

In addition, DHCF is amending its State Plan with respect to Home Health Care and Personal Care Assistance Services. The amendments are designed to clarify and strengthen program requirements to promote community exploration and integration, among other things.

## **Section III: DHCF collaboration with Government Partners**

### **A. Office on Aging**

DHCF has entered into several Memoranda of Understanding with the District's Office on Aging (DCOA) that will support and facilitate greater individualized community exploration and integration. DCOA is responsible for advocating, planning, implementing, and monitoring programs in health, education, employment, and social services which promote longevity, independence, dignity and choice for District of Columbia residents 60 years of age and older and persons 18 years of age and older with disabilities. DCOA operates the Aging and Disability Resource Center (ADRC), a one-stop resource, providing information, referral and assistance; options counseling; and person-centered planning for persons seeking long term care services and supports. As a part of its information, referral and assistance services, DCOA's ADRC conducts a preliminary intake and pre-screening and assists individuals with applications for public benefits including Medicaid programs and services, i.e. the EPD Waiver, 1915(i) State Plan services and other public benefits. DCOA's ADRC is also the Local Contact Agency

(LCA) for individuals in nursing homes who, in response to Section Q of the Minimum Data Set (MDS) that nursing homes are required to complete, indicate an interest in living outside of the nursing facility.

The purpose of these MOUs is to coordinate and share data in an effort to ensure that DCOA's ADRC can provide application assistance, options counseling and person-centered planning to individuals who are seeking or receiving long-term care services and supports who are current Medicaid beneficiaries or who may be eligible for Medicaid. Further, these MOUs ensure that individuals currently living in nursing homes who are medically able, Medicaid eligible, and express an interest in moving into the community are afforded the full range of necessary resources in order to effectuate a return to the community as quickly as possible. To that end, the ADRC Community Transition Team (CTT) provides transition coordination services for these nursing home residents. In November 2014, the District consolidated its nursing home-to-community transition coordination units at the ADRC. The consolidation represented a merger of DC's Money Follows the Person (MFP) transition coordination unit, previously housed at DHCF under the MFP Demonstration, and a transition coordination unit already housed at the ADRC.

This level of collaboration between the agencies, including the sharing of data, is necessary in order to complete and track required assessments and identify needs, assist with the eligibility determination process, support educated options counseling about Medicaid services and community supports, and satisfy all legal requirements while helping District residents attain or maintain their independence in the most integrated setting appropriate to their needs and preferences.

## **B. Department of Health**

In addition to DHCF's collaboration with DCOA, DHCF is also working with the District's Department of Health (DOH) to ensure that the HCBS settings qualities and requirements are incorporated into the District's regulatory requirements for community-based residential settings. DOH's responsibilities include identifying health risks; educating the public; preventing and controlling diseases, injuries and exposure to environmental hazards; promoting effective community collaborations; and optimizing equitable access to community resources. Within DOH, the Health Regulation and Licensing Administration (HRLA) protects the health of the residents of the District and those that do business here by fostering excellence in health professional practice and building quality and safety in health-systems and facilities through an effective regulatory framework.

Specifically, DHCF is working with DOH/HRLA's Intermediate Care Facilities Division (ICFD) which licenses group homes for persons with intellectual, developmental and physical disabilities residing in the District of Columbia. The ICFD also licenses Home Care Agencies, Community Residence Facilities, and Assisted Living Residences to ensure their compliance with local licensure requirements. In this role, HRLA staff inspects licensed health care facilities and

providers who participate in the Medicare and Medicaid programs, responds to consumer and self-reported facility incidents and/or complaints, and conducts investigations. When necessary, HRLA takes enforcement actions to compel facilities and providers to come into compliance with District and Federal law. DHCF and DDS are working with HRLA to revise the regulations for community residential facilities which incorporate both licensed small group homes known as community residence facilities and assisted living residences. The revisions specific to the community residence facility regulations will be promulgated with a formal opportunity for public comment. Final publication is anticipated in FY 2015. In FY 2016, DOH will draft regulations relative to Assisted Living Residences that support compliance with the HCBS settings rule.

#### **Section IV: Assessment Process, Remedial Strategy, and Monitoring and Compliance**

##### **A. Assessment Process**

DHCF conducted an extensive, systematic legal analysis of the laws and rules regulating the settings impacted by the HCBS settings rule, namely settings comprised of assisted living residences (*Assisted Living Residence Regulatory Act of 2000, effective June 24<sup>th</sup>, 2000, (D.C. Law 13-127, D.C. Official Code §§ 44-101.01-44-108.03)*) and community residence facilities (*D.C. Mun. Regs. 22-B DCMR §§ 3401-3499*). While DC regulations often mirror or have equivalent federal requirements, some District regulations do not comport with the new federal HCBS settings requirements. Therefore, DHCF's specific remedial actions for coming into compliance include:

- Identify regulations that do not comport with federal HCBS requirements,
- Work with DOH to promulgate new regulations to revise and strengthen HCBS settings requirements,
- Conduct provider training and stakeholder outreach on new regulations, and
- Monitor compliance.

In addition, DHCF will require that HCBS providers conduct a settings self-assessment when appropriate; DHCF will use CMS' "Exploratory Questions to Assisted States in Assessment of Residential Settings" to develop this self-assessment.

A high level summary of DHCF's legal analysis are set forth in Table 1.

*Table 1. Legal Analysis of HCBS Settings Regulations compared to DC Regulations*

| CMS HCBS Setting Requirements  | Do DC Regulations Meet Federal HCBS Standards? |                           |
|--|--|---------------------------|
|  | Community Residence Facilities                 | Assisted Living Residence |
| The setting is integrated in and supports full access to the greater community   | Yes  | Yes                       |
| Is selected by the individual from among setting options   | No   | No                        |
| Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint                                 | Yes  | Yes                       |
| Optimizes autonomy and independence in making life choices   | No   | Yes                       |
| Facilitates choice regarding services and who provides them  | No   | No                        |
| The individual has a lease or other legally enforceable agreement providing similar protections                                    | Yes  | Yes                       |
| The individual controls his/her own schedule including access to food at any time  | No   | No                        |
| The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit | No   | No                        |
| The individual can have visitors at any time   | No   | No                        |
| The setting is physically accessible   | Yes  | Yes                       |

## **B. Remedial Strategy**

### *Implementing Revised State Regulations to Support the HCBS Settings Requirements*

As a result of the revisions noted above, DOH will review licensing applications to ensure that applicants comply with the regulations and HCBS settings requirements as set forth in rule. DOH will require licensees be compliant with the HCBS settings rules per the regulations, where the rules must be incorporated into the licensees' policies and procedures, as necessary (including regarding visitation, choice of roommate, and food access).

### *Revising Provider Requirements*

As mentioned above, DHCF's Long Term Care Administration (LTCA) is currently revising its EPD Waiver provider requirements and the application process in order to ensure organizations

providing EPD services to DC residents are supporting and facilitating greater individualized community exploration and integration. In addition to reengineering the internal mechanism for processing provider applications, the LTCA is adopting a new EPD Provider Readiness Review Checklist that applicants must use when submitting their application materials. As this checklist is being refined, a section will be added that reflects the HCBS settings rule, where applicants, when appropriate, must attest to complying with the rules and submit their policies and procedures, as appropriate. DHCF will use CMS' "Exploratory Questions to Assist States in Assessment of Residential Settings" to amend the checklist. Only applicants with approved policies and procedures will be referred to DHCF's Division of Public and Private Provider Services for enrollment as EPD waiver providers.

### *Conducting Statewide Provider Training on New State Standards*

Upon publication of the revised existing DOH standards and completion of the revised EPD Waiver provider requirements, DHCF will work with DOH and DCOA's ADRC to co-host no less than three trainings for providers on both the DOH standards and the new EPD provider requirements. We anticipate that these trainings will begin in the Fall of 2015 and will be publicized via the DHCF website and provider listserv.

### **C. Monitoring and Compliance**

- As a result of the revised regulations, DOH will account for the added requirements relative to HCBS settings during its monitoring process of ALRs and CRFs. At present, providers must have their DOH license renewed annually (within 90 days of license expiration). The renewal requires that a surveyor or team of surveyors (depending on the type/size of provider) make an unannounced site visit which includes three stages. First, the surveyors will observe staff interaction with individuals receiving HCBS services, assess whether the environment is in compliance with the regulations, and interview staff and clients. Then, the surveyors begin record verification, which includes reviewing medication administration, employment records, and policies and procedures. From this information, the surveyors make a compliance decision to determine if there are any deficient practices, which will be shared with the provider during the site visit exit interview. A written report detailing results of the site visit and the observed deficiencies is shared with the provider within ten days of the exit interview, and the provider then has ten days to respond with a corrective action plan. Upon receipt and approval of the plan, DOH may conduct an unannounced follow up site visit to ensure that the corrective action plan is being adhered to. This monitoring process will account for compliance with the HCBS settings rule and associated policies and procedures of the provider/licensee.
- DHCF's EPD Monitoring Team has a comprehensive monitoring tool for all EPD waiver services which has a specific section dedicated to assisted living services. This section will

be amended to reflect the HCBS settings requirements. The EPD Monitoring Team also uses the aforementioned Readiness Checklist for renewals of assisted living providers' status as EPD Waiver providers.

- Beyond DHCF's efforts to monitor enrolled Medicaid providers, the LTCA engages in an assessment process for the level of need for beneficiaries who receive long term care services and supports, as mentioned above. On June 6, 2014, DHCF published a notice of public rulemaking in the DC Register establishing standards governing the Medicaid assessment process and to establish numerical scores (via use of a standardized needs assessment tool) pertaining to the level of need necessary to establish eligibility for a range of services. DHCF received and incorporated comments and is in the process of publishing a second notice of public rulemaking. DHCF is augmenting the assessment tool to include an addendum regarding the HCBS settings requirements and qualities, using the CMS "Exploratory Questions to Assist States in Assessment of Residential Settings" as a guide. Note that this assessment tool is also used for beneficiaries' annual re-enrollment process.
- EPD assisted-living service providers deemed noncompliant with the HCBS settings rule will be notified of areas of deficiency and given 30 days to submit a corrective action plan to DHCF. DHCF will utilize this corrective action plan as a component of ongoing monitoring processes. If the provider continues to be non-compliant, DHCF will evaluate the appropriateness of various sanctions as established by DHCF's amended rules.
- DHCF will issue a transmittal informing all providers of DHCF's expectations that they will come into compliance with the HCBS Settings Rule. The transmittal will be issued prior to March 17, 2015.

## **Section VI: Ongoing Outreach and Engagement**

- DHCF will seek initial stakeholder input from the HCBS Stakeholder Sub-Group: Transition Plan to adjust, as needed, the draft transition plan prior to publication for public comment.
- DHCF will make public notice through multiple venues to share the Statewide Transition Plan with the public, including but not limited to: (1) published notice in the DC register; (2) publication on the DHCF website; (3) email alert to the DHCF Stakeholders; and (4) announcement at existing meetings.
- DHCF will post the entire Statewide Transition Plan on its website and make it available in hard copy upon request and at all public meetings when its contents are under discussion.

- DHCF will host one public meeting to explain the HCBS Settings Rule and this transition plan in plain language, and answer any questions. Oral comments on the plan from attendees at this meeting will be recorded and accepted as public comments.
- There will be at least a thirty (30) day public comment period from the time notice is published in the D.C. Register.
- DHCF will accept comments in a variety of formats, including in person, and by email and mail or fax submission.
- DHCF will respond to all public comments received and make changes to the Statewide Transition Plan, as appropriate, based on those comments.
- DHCF will publish the public comments and responses on its website, and will store the comments and responses for CMS and the general public.
- All activities related to the Statewide Transition Plan will be done in partnership with sister District agencies, in particular the Department of Disability Services (DDS), the Department of Health (DOH), the Deputy Mayor's office (DM), and the Office on Aging (DCOA).

## APPENDIX 1

### DISTRICT OF COLUMBIA TRANSITION PLAN FOR THE HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PEOPLE WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

#### **Section I: Introduction**

The Centers for Medicare & Medicaid Services (CMS) issued a final rule effective March 17, 2014, that contains a new, outcome-oriented definition of home and community-based services (HCBS) settings. The purpose of the federal regulation, in part, is to ensure that people receive Medicaid HCBS in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as people who do not receive HCBS. CMS expects all states to develop an HCBS transition plan that provides a comprehensive assessment of potential gaps in compliance with the new regulation, as well as strategies, timelines, and milestones for becoming compliant with the rule's requirements. CMS further requires that states seek input from the public in the development of this transition plan.

Below is the District of Columbia's transition plan for the HCBS waiver for people with intellectual and developmental disabilities (IDD). This plan will become part of the Statewide Transition Plan for all HCBS settings. A draft of this plan was posted in its entirety on the Department on Disability Services (DDS) website at [www.dds.dc.gov](http://www.dds.dc.gov) on October 29, 2014 for public comment. This revised version reflects the public comments received. It also will be posted, in its entirety, on our website. Please see Section VI, Outreach and Engagement, for more information on DDS's public comment process.

You can learn about the new rule at [www.hcbsadvocacy.org](http://www.hcbsadvocacy.org). The website includes links to the CMS rule, webinars, and guidance; information on other states' transition plans; advocacy materials and more.

#### **Section II: District of Columbia Initiatives to Increase Opportunities for Competitive, Integrated Employment and Community Integration**

##### **A. Training and Capacity Building**

DDS is engaged in a variety of efforts to build the capacity of its staff and provider agencies to support and facilitate greater individualized community exploration and integration, including competitive, integrated employment. Listed below are some examples of

ongoing initiatives that build capacity and support compliance with the HCBS Settings Rule.

### Person Centered Thinking

DDS is currently in full compliance with the Person Centered Planning requirements of the HCBS Settings rule.

As part of DDS's continuous quality improvement and enhancement efforts, DDA is engaged in multi-year a "Person-Centered Thinking" (PCT) initiative to redesign the delivery of services available to persons with intellectual and developmental disabilities in a more progressive, best-practice approach that supports people with disabilities to have fuller lives in which they have real choices and self-direct the lives they lead. At its core, PCT is designed to help people who have traditionally led isolated lives, experience ordinary, self-directed lives within their communities. PCT promotes supporting people as ordinary citizens while recognizing and accounting for their needs. PCT tools identify, in-depth, the interests, preferences, preferred environments, support requirements, etc. that provide important information for the development of goals and program activities that promote community integration.

DDS currently has six staff who are Person Centered Thinking trainers/coaches to support this effort, and has embarked on training four provider agencies to become Person Centered Organizations. In Fiscal Year (FY) 2015, DDS will continue to expand the cadre of trainers within DDS and the community; will offer focused PCT training for people with intellectual and developmental disabilities and their families; and will offer significant technical assistance to an additional three providers agencies to improve their PCT skills and practices.

### Discovery, Positive Personal Profiles, and Job Search/ Community Participation Plans

In FY 2014, DDS offered Train the Trainer training to the DDA and day/ vocational provider staff on "Discovery: Developing Positive Personal Profiles," a nationally recognized tool and process for assessing the vocational interests and goals of people and supporting career exploration and community integration activities. This training teaches participants how to create a Positive Personal Profile (PPP) and adapt the traditional Job Search Plan to an Job Search and Community Participation Plan that provides guidance to staff working with a person to help identify meaningful daytime and work experiences. PPPs and the accompanying plans are part of the Discovery process that leads to customized employment and community inclusion, and are considered best practice in the developmental disabilities field for people who have significant disabilities and/or face significant barriers to employment.

For FY 2015, DDS is providing additional training and technical assistance sessions, entitled “Ensuring High Quality Positive Personal Profiles and Job Search/ Community Participation Plans. “ These sessions will build on the previous Discovery training and will guide participants in assessing the quality of information in PPPs and the Job Search/Community Participation plans and how to create more effective Discovery documents that lead to employment and/or community participation outcomes. This is an interactive training and each participant must bring a draft PPP and Job Search/Community Participation plan for someone with significant disabilities whom they have identified as presenting substantial challenges when planning for employment and community participation.

### Community Integration in Day Programs

In FY 2014, DDS offered a variety of training and technical assistance to support the roll out of Individualized Day Supports (IDS). DDS started an IDS Community of Practice that meets monthly. DDS offers ongoing training, webinars and technical assistance for IDS providers that focus on specific topics of interest to the providers. As an example, DDS provided training and support to the IDS providers in Community Mapping on both a person-specific and neighborhood/Ward specific basis. Several of the DDS/DDA providers who participated in that training then conducted training on Community Mapping for all interested providers the upcoming Direct Support Professional Conference in October 2014.

Additionally, DDS created an IDS Toolkit, available on our website. Where appropriate, DDS has shared materials developed for IDS with all providers, such as materials for recruiting Direct Support Professionals with skills in community integration and as community builders. In FY 2015, DDS/DDA will continue to build capacity with DDA staff and IDS providers, as well as support the development of additional community integration activities and opportunities throughout all day and vocational programs, and to assist agencies in working through issues that might limit someone’s community integration opportunities.

### Employment First

DDS recently issued an Employment First policy, available on-line at <http://dds.dc.gov/sites/default/files/dc/sites/dds/publication/attachments/Employment%20First%20Policy.pdf>, that establish Employment First as a priority and guiding philosophy for people with disabilities who receive services from the agency.

The District of Columbia was selected as one of 15 states by the Department of Labor, Office of Disability Employment Policy (ODEP) to be part of their Employment First State

Leadership Mentoring Program (EFSLMP). DDS is coordinating a Leadership Team that includes District Human Services, Education and Workforce agencies, to work together to better ensure that youth and adults with disabilities achieve employment outcomes and become economically self-sufficient. The District will benefit from support from ODEP and several Subject Matter Experts to enable all of our agencies and our provider networks to collaborate more effectively, leverage each other's resources, and build the competency of our staff and providers communities. In FY 2015, DDS will offer additional training and technical assistance on Provider transformation toward employment and integration, through our participation in this program.

DDS's work with providers also includes the development of and participation in the Administration on Intellectual and Developmental Disabilities' Employment Learning Community (ELC), which brings providers together on a regular basis through a community of practice approach where national and local resources are shared and providers learn from one another. The ELC has focused on customized employment. In addition to implementing customized employment practices through their own agencies, the ELC recently conducted a two-day training in which they trained additional staff from the provider community on customized employment.

## **B. HCBS IDD Waiver Amendments that Support Compliance with the HCBS Settings Rule**

In addition to DDS's ongoing commitment to training and capacity building, DDS and DHCF have made changes to the HCBS IDD waiver program to increase opportunities for community integration and employment for people with disabilities. In November 2012, DDS and DHCF renewed the HCBS IDD waiver and included the following changes to enhance community integration and employment for people with disabilities.

- Supported Living with Transportation provides flexible transportation to people receiving Supported Living services to increase opportunities for community engagement.
- DDS launched a new Home and Community Based Services waiver service, Individualized Day Supports ("IDS"), implemented in the FY 2014, which provides habilitation supports in the community to foster independence, encourage community integration, and helps people build relationships. IDS provides for highly individualized supports that occur within inclusive community settings. In addition to providing opportunities for socialization and life skill development, IDS provides opportunities for vocational exploration that may lead to further employment services and supports. Additionally these supports can serve as a supplement to

employment services for individuals who may work part time and be in need of additional supports in addition to employment. Currently, there are 135 people who participate in IDS.

Additionally, DDS and DHCF are amending waiver to further opportunities for community and meaningful day, addressing the need for more individualized integrated approaches of the provision of support to people, and achieving compliance with the HCBS Settings Rule.

- **Day Habilitation:** Clarifies service definition to require meaningful adult activities and skills acquisition that support community exploration, inclusion and integration based upon the person's interests and preferences. Specifies that individualized community integration and/ or inclusion activities must occur in the community in groups that do not exceed four participants and must be based on the people's interests and preferences.
- **Small Group Day Habilitation:** Introduces a small group rate with a staffing ratio of 1:3 and no more than fifteen (15) people in a setting for people with higher intensity support needs. Small Group Day Habilitation must be provided separate and apart from any large day habilitation facility.
- **Individualized Day Supports:** Modifies IDS service definition to clarify that IDS includes the provision of opportunities that promote community socialization and involvement in activities, and the building and strengthening of relationships with others in the local community. Allows IDS to be combined with other day and employment supports for a total of forty (40) hours per week. Offers IDS in small groups (1:2) and one-to-one, based upon the person's assessed need and, for limited times, based on ability to match the person with an appropriate peer to participate with for small group IDS. Adds orientation requirements for DSP staff working in IDS. Limits minimum service authorizations. Adds provision of one nutritionally adequate meal per day for people who live independently or with their families.
- **In Home Supports:** Clarifies service definition to require meaningful adult activities and skills acquisition that support community exploration, inclusion and integration based upon the person's interests and preferences
- **Supported Employment and Small Group Supported Employment:** Amend provider qualifications by requiring that all Supported Employment providers become Rehabilitation Services Administration service providers within one year of approval of these amendments. Revise service definition to include benefits counseling.

- **Supported Living and Supported Living with Transportation:** Modifies the service definition to create more flexibility in the application of the reimbursed staffing hours and ratios, to better reflect the time individual persons may spend in their residence during the course of the day to be responsive to individualized person-centered plans.
- **Provider Requirements:** Adds the requirement that owner-operators of residential, day and vocational supports complete training in Person-Centered Thinking, Supported Decision-Making, Supporting Community Integration, and any other topics determined by DDS, and in accordance with DDS published guidance within one year from the date the waiver application becomes effective for current providers and prior to any new waiver provider becoming approved to initiate services. Further requires that management personnel, Qualified Intellectual and Developmental Disabilities Professions, and House Managers of residential, day and vocational supports complete training in Person-Centered Thinking in accordance with DDS published guidance within one year from the date the waiver application becomes effective for current providers and prior to any new waiver provider becoming approved to initiate services.

### **Section III: Assessment & Remediation**

#### **A. DDS Policy on Compliance with HCBS Settings Rule**

In the first quarter of calendar year (CY) 2015, DDS will issue a policy requiring that agency staff and providers participate in efforts to assess and achieve compliance with the HCBS Settings Rule. This will include the expectation that providers conduct a critical and honest self-assessment; cooperate fully with the assessment and transition process; and demonstrate on-going efforts, cooperation and progress towards compliance with the HCBS Settings Rule. The policy will be drafted by the DDS State Office of Disability Administration (SODA), and will be approved by the DDS Director. The policy will be distributed to agency staff and providers, posted on the DDS website, and will be discussed at meetings with provider leadership.

#### **B. State Level Self-Assessment**

The State has established an HCBS Settings Rule Advisory Group and begun meetings to assess all rules, regulations, licensing requirements, certifications processes, policies, protocols, practices and contracts to determine which characteristics of HCBS settings are already required and where there are gaps. The review group will identify areas where changes are needed to ensure compliance with the HCBS settings characteristics rule and make recommendations for remediation.

1. DDS has invited representatives of the groups below to participate in the review group and will invite and consult with others, including the Department of Health (DOH), as needed. DDS will post the meeting dates on its website and members of the public will be welcome to attend and participate. DDS SODA is responsible for arranging and facilitating the meetings. DDS Information Technology (IT) will post items, as needed, on the website. Meetings are underway and will continue through the assessment and remediation process.

Invited members of the review group include:

- a. DDS, including representatives from DDA Service Coordination, DDA Waiver Unit, SODA, a Person-Centered Thinking Leader, and others, as needed, including representatives from DDS/DDA Quality Management Division and DDS/DDA's Provider Certification Review team;
  - b. DHCF;
  - c. D.C. Developmental Disabilities Council
  - d. Project ACTION!, D.C.'s self-advocacy group;
  - e. D.C. Supporting Families Community of Practice;
  - f. Quality Trust for Individuals with Disabilities;
  - g. University Legal Services, D.C.'s protection and advocacy organization;
  - h. D.C. Coalition of Disability Services Providers; and
  - i. Georgetown University Center for Excellence in Developmental Disabilities.
2. The self-assessment will specifically include, but is not limited to, a review and analysis of:
    - a. All HCBS waiver service definitions and provider requirements;
    - b. All regulations governing HCBS;
    - c. DDS/DDA Provider Certification Review process;
    - d. DOH licensing requirements and regulations;
    - e. All DDS/DDA policies, procedures, and protocols, including Quality Management practices and tools;
    - f. Provider training requirements;
    - g. Human Care Agreements and rate methodologies; and
    - h. Information systems.
  3. The state level assessment will be completed in second quarter of the CY 2015 and will result in D.C. having a list of required changes needed to the waiver itself, implementing regulations, and policies, procedures and practices. Upon completion of

the assessment, D.C. will establish specific timelines and milestones for remediation and achieving compliance with the new federal rules as needed changes are identified.

4. DDS and DHCF will include this information in an amendment to the D.C. HCBS IDD Waiver Transition Plan, as needed. In instances where a change in rule or policy requires a public comment period, time lines will be adjusted accordingly to accommodate time needed to process and respond to public input and incorporate such comments into document revisions. DDS and DHCF will follow the requirements for public notice and input for amendments to the Plan.
5. DDS SODA is responsible for tracking where characteristics of HCBS settings are already required and where there are gaps and changes are needed to ensure compliance with the HCBS settings characteristics rule, drafting the amendments to the D.C. HCBS IDD Waiver Transition Plan in accordance with the results of the assessment process, and establishing a process that complies with CMS public input requirements.

### **C. Provider Self-Assessment and Remediation**

1. DDS will draft an electronic provider self-assessment tool to guide a critical self-review of provider policies, procedures, protocols, and practices (including, but not limited to, access to food, keys, visitors, choice of community activities, etc.). The assessment will be by provider service-type. For example, a provider may be required to prepare one assessment for its day habilitation program, a second for its supported living service, and a third for its host home program.
2. DDS SODA has engaged Support Development Associates and convened the HCBS Settings Rule Advisory Group to develop the self-assessment tool. The tool will be finalized by in the first quarter of the CY 2015 and posted on the DDS website.
3. DDS SODA is responsible for drafting the self-assessment tool, in collaboration with staff from DDA, including representatives from Service Coordination, Waiver Unit, and Quality Management Division (QMD). DDS IT will assist, as needed, with making this an electronic tool.
4. DDS will conduct mandatory provider education and training sessions on the requirements of the HCBS Settings Rule and how to complete the provider self-assessment tool. These trainings will take place in the first quarter of CY 2015, with additional trainings as needed. Assigned DDS staff will also attend this training.

5. Providers will receive the self-assessment tool along with instructions and timelines for completion. At a minimum, all active HCBS residential, supported employment, employment readiness and other day programs shall be required to complete a self-assessment.
6. Providers will be required to include a cross section of their organization, including at least one executive, middle manager, and direct support professional, in addition to people supported and their family members. Providers are encouraged to include advocates and other stakeholder in their self-assessment process.
7. Providers will be required to include in their self-assessment a description of their self-assessment process, including participation of the aforementioned persons.
8. Providers will submit their self-assessment, along with specific evidence of compliance, for further review by DDS by the end of the second quarter of CY 2015. Additional evidence may be requested or further reviews conducted as needed to further assess and validate compliance with these rules.
9. DDS QMD will validate a sample of provider self-assessments in the third quarter of CY 2015.
10. Providers who self-report that they are non-compliant or whom are assessed to be non-compliant with the HCBS Settings Rule will be required to submit a Provider Transition Plan identifying the areas of non-compliance and describing their proposed plan for coming into compliance along with associated timelines. For example, remedial actions might include, but are not limited to changes to operations to assure that people receiving supports have greater control over activities like access to meals, engagement with friends and family, choice of roommate, and access to activities of his or her choosing in the larger community, including the opportunity to seek and maintain competitive employment. Provider Transition Plans will be due in the third quarter of CY 2015.
11. In the second quarter of CY 2015, DDS will amend its Provider Performance Review (PPR) policy, procedure, and process to incorporate Provider Transition into the pre-existing requirements.

DDS's Provider Performance Review ("PPR") ensures that all provider performance data is synthesized from throughout DDS/DDA and presented in a coordinated and comprehensive manner on at least an annual basis. A provider continuous

improvement plan (CIP) will address performance measures falling below established benchmarks. The provider will also be supported to pursue quality improvement strategies in support of advancing best practice in the absence of performance deficits. In an effort to continually address and improve organizational performance and maintain high quality of care/services, the QMD evaluates the provider organization's performance in key policy areas, and tracks the effectiveness of new, redesigned or improved processes employed by the provider agency on a quarterly basis. This is achieved through review of performance measures from the QMD and a review of the provider's update on progress with the CIP. Further remedial actions are initiated based on these quarterly reviews as needed.

In the amended PPR policy and procedure, Provider Transition Plans will become a required element of the CIP and the provider's progress in achieving compliance with the HCBS Settings Rule will be reviewed on a quarterly basis. Additionally, performance measures regarding compliance with the HCBS Settings rules from the various assessment tools will be incorporated into the annual PPR review.

12. Provider Transition Plans will be due to DDS in the third quarter of CY 2015.
13. All completed and validated Provider Transition Plans will be reviewed and approved by DDS, and DDS will monitor implementation.
14. Providers needing assistance to achieve compliance may request such assistance from DDS, another compliant provider of the same service type, and/or people they support and their families and advocates.
15. It is DDS's expectation that providers conduct a critical and honest self-assessment; cooperate fully with the assessment and transition process; and demonstrate on-going efforts, cooperation and progress towards compliance with the HCBS Settings Rule. Providers determined by DDS to be unwilling or unable to conduct a self-assessment and/ or come into compliance will be required to cooperate with transition assistance to ensure all people who receive supports are transitioned to another provider, maintaining continuity of services, in accordance with DDS's Transition policy and procedure and the HCBS Settings compliance policy and procedure. DDS, DHCF and DOH, where appropriate, shall oversee all necessary transition processes.
  - a. A minimum of thirty (30) days' notice will be given to all people needing to transition between providers. More notice may be granted when residential services are being secured.

- b. A description of the process and choice of appropriate providers will be included with each notice. The person's service coordinator will conduct a face-to-face visit as soon as possible to discuss the transition process and ensure the person and their family, where appropriate, understand any applicable due process rights.

**D. Assessment by People who Receive Waiver Supports and their Families**

1. DDS will draft an assessment tool that people with intellectual disabilities who receive waiver supports, their families, and their advocates can use to assess services and guide informed provider choice. This tool will be incorporated into the pre-existing service coordination day and residential monitoring tools.
2. DDS SODA has engaged Support Development Associates and convened the HCBS Settings Rule Advisory Group to develop the self-assessment tool. The tool will be finalized by in the first quarter of CY 2015 and posted on the DDS website.
3. DDS SODA is responsible for drafting the self-assessment, in collaboration with staff from DDA. DDS IT will assist, as needed, with making this an electronic tool, including adding it to the service coordination monitoring tools.
4. DDS will conduct mandatory education and training sessions for service coordination staff on the HCBS Settings Rule, the new tool and how to assist people who receive supports to complete the assessment tool. These trainings will take place in first quarter of CY 2015 and will continue, as needed. Assigned DDS staff in other units will also attend this training.
5. Each person's service coordinator shall assist the person and his or her family member, or other representative, as appropriate, with completing the assessment. Provider staff may participate if requested by the person or his or her family or other representative.
6. Such assessments will be conducted, beginning in the second quarter of CY 2015, during the regular service coordination monitor schedule, as set out in the DDS Service Coordination Monitoring policy and procedure. Additionally, assessment tools will also be posted on the DDS website and distributed at ISP meetings to family members who may wish to complete and return them.

7. This assessment period will be ongoing for one year to allow each service coordinator the opportunity to conduct the assessment tool with the person and his family while completing scheduled monitoring reviews.
8. DDS will enter the results into a database, review and analyze the results of the assessment tool, and post aggregated results on its website.

#### **E. Review of National Core Indicators data and data from DDS's external monitors**

DDS QMD will review the results of the National Core Indicators (NCI) Adult Consumer Survey and Family Surveys, reports from the *Evans* Court Monitor, and reports from the Quality Trust for Individuals with Disabilities to assess where indicators suggest systemic evidence of non-compliance or need for remediation with the HCBS Settings Rule.

### **Section IV: Achieving Initial Compliance and Amendments to the D.C. HCBS IDD Waiver Transition Plan**

- A. As a result of the assessments, DDS will issue revisions to policies and procedures as needed, with publication beginning in the second quarter of CY 2015. All revised policies will be distributed to agency staff and providers, posted on the DDS website, and will be discussed at meetings with provider leadership.
- B. As a result of the assessments, DDS and DHCF will promulgate revised regulations for the HCBS waiver, on an on-going basis, with publication beginning in the second quarter of CY 2015.
- C. Upon review of the state self-assessment and the assessment by people DDA supports and their families, and review and validation of provider self-assessments, the District will submit an amendment to the D.C. HCBS IDD Waiver Transition Plan with specific remediation activities (specifically including but not limited to revisions of rules, regulations, licensing requirements, certifications processes, policies, protocols, practices and contracts) and milestones for achieving compliance with the HCBS Settings Rule. DDS SODA is responsible for drafting the amendments to the D.C. HCBS IDD Waiver Transition Plan in accordance with the results of the assessment process, and establishing a process that complies with CMS public input requirements.
- D. For providers needing assistance to come into compliance, the state proposes to implement the following strategies, in addition to the capacity building activities listed above in Section II:

1. Facilitate a Community of Practice, comprised of both non-compliant and compliant providers who can talk through provider-specific issues and problem-solve how to achieve compliance together.
2. Provide one-to-one technical assistance.

## **Section V: Assuring Ongoing Compliance**

As compliance with the HCBS Settings Rule is achieved, strategies to assure on-going compliance include:

- A. Incorporating the assessment by the person into ongoing service coordination monitoring activities.
- B. Quality assurance methodologies will incorporate monitoring performance measures that ensure compliance with the HCBS Settings Rule.
- C. Provider certification and licensing requirements will incorporate requirements that reflect compliance with the HCBS Settings Rule.
- D. Continued review of NCI data and external monitoring data to support its ongoing compliance monitoring efforts.

## **Section VI: Outreach and Engagement**

- A. DDS sought initial stakeholder input from the HCBS Setting Rules Advisory Group to adjust, as needed, the drafted transition plan prior to publication for public comments. This meeting took place on October 21, 2014 and the transition plan was revised accordingly.
- B. D.C. published notice of the proposed transition plan in the DC Register on October 31, and on November 28, 2014. Each published notice launched a thirty (30) day public comment period. DDS also posted notice on our website, sent an email announcement to our stakeholders list, and made announcements at community events.
- C. Additionally, this Transition Plan is incorporated by reference into the D.C. Statewide Transition Plan and attached as an Appendix. The public outreach and engagement for the D.C. Statewide Transition Plan includes:

- a. DHCF will make public notice through multiple venues to share the Statewide Transition Plan with the public, including but not limited to: (1) published notice in the DC register; (2) publication on the DHCF website; (3) email alert to the DHCF Stakeholder Listserv; and (4) announcement at existing meetings.
  - b. DHCF will post the entire Statewide Transition Plan on its website and make it available in hard copy upon request and at all public meetings when its contents are under discussion.
  - c. DHCF will host one public meeting to explain the HCBS Settings Rule and this transition plan in plain language, and answer any questions. Oral comments on the plan from attendees at this meeting will be recorded and accepted as public comments.
  - d. There will be at least a thirty (30) day public comment period from the time notice is published in the D.C. Register.
  - e. DHCF will accept comments in a variety of formats, including in person, and by email and mail or fax submission.
  - f. DHCF will respond to all public comments received and make changes to the Statewide Transition Plan, as appropriate, based on those comments.
  - g. DHCF will publish the public comments and responses on its website, and will store the comments and responses for CMS and the general public.
  - h. All activities related to the Statewide Transition Plan will be done in partnership with sister District agencies, in particular the Department of Disability Services (DDS), the Department of Health (DOH), the Deputy Mayor's office (DM), and the Office on Aging (DCOA).
- D. DDS posted the entire D.C. HCBS IDD Waiver Transition Plan on its website and made it available in hard copy upon request and at all public meetings when its contents were under discussion.
- E. DDS hosted three public forums. In each, we distributed copies of the entire Transition Plan, explained the new HCBS Settings Rule and our transition plan, and accepted oral comments.
- F. In addition to oral comments during the public forums, DDS also received and accepted comments during the public comments periods by phone and in writing.
- G. DDS and DHCF have reviewed all comments. We have incorporated appropriate suggestions and summarized the changes made to the transition plan in response to the public comment. A copy of the public comment chart is attached to this Transition Plan.

- H. DDS will publish the public comments and DDS and DHCF responses on its website, and will store the comments and responses for CMS and the general public.
- I. DDS will post the revised D.C. HCBS IDD Waiver Transition Plan on its website along with all previously posted iterations, and the rationale for changes made.
- J. In addition to the explanation of the HCBS Settings Rule at the public forums, DDS will design, schedule and conduct trainings for people who receive supports and their families and other stakeholders on the requirements of the Rule, changes they can expect to see that may affect their supports, and how they can be involved in the transition process.

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