

## **Informational Sheet for Providers and Human Service Centers for the Transition Plan Remediation Strategies for Day Supports in ICF/IID Locations**

### General Information

CMS passed a new rule, March 17, 2014, that describes requirements for the services and settings where Home and Community Based Services are provided. The services and settings must meet these requirements if they are paid with Medicaid federal funds. The DD Division will additionally be conducting state wide training in the near future on these New Rules and how to implement these requirements.

The rule identifies settings that are not home and community based and where they should not occur, which include the following:

- A nursing facility;
- An institution for mental diseases;
- An ICF/IID
- A hospital; or
- Any other locations that have qualities of an institutional setting.

Home and community based settings must have the following qualities:

- The setting is integrated in and supports full access to the greater 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 Medicaid HCBS;
- Is selected by the individual from among setting options;
- Ensures individual's rights of privacy, dignity and respect, and freedom from restraint;
- Optimizes individual initiative, autonomy, and independence in making live choices;
- Facilitates choice regarding services and who provides them.

Providers and Human Service Centers participated in an assessment which determined if waiver day support services occurred in these settings. The following settings and individuals have been identified as receiving day support services in an ICF/IID.

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According to the New Rule, the individuals will need to establish alternative day support locations that are in line with the home and community based requirements as outlined in the DD Division Transition Plan. The timeline for completion is March 2017.

Additionally moving forward, no new day support services will be established or authorized for waiver individuals in an ICF/IDD location.

The following is guidance for DDPM's and Providers with the implementation to assist in clear direction and a smooth transition. The State was required to develop remediation, strategies, timelines, etc. in the Transition Plan for CMS approval. Additionally, CMS is monitoring State's implementation activities, which requires States to track their activities and progress.

### Action Steps

- The DD Division developed a letter (see attached) which describes the requirement, change, and process for individuals and their guardians. The DDPM is responsible for providing the letter and information to both the identified individuals and their guardian. It is recommended and best practice that in addition to the letter, the information is also communicated verbally to explain more thoroughly and ensure understanding.
- In light of the new federal requirements, the entire process should still be person-centered from beginning to end taking into account the individuals needs and preferences.
- The notice and team discussions may begin anytime as long as reasonable notice is provided. This is to allow time for the individual and team to have opportunities to interview and tour potential providers leading to an informed decision. The DDPM is responsible to provide the individual and/or guardian with information about the services and supports relevant to their particular needs and goals, the qualified providers available, and setting options.
- The DDPM and Provider will communicate and work together as needed in conducting the activities.
- Once a new setting/provider is selected, meeting(s) will occur and the OSP will be developed according to the OSP Instructions. Providers will continue to be responsible for the meeting arrangements.
- According the New Rule, the Provider will record in the OSP the alternative home and community based setting(s) that were considered by the individual. Provide a summary in either the "Self-Assessment Section" or "Vocational Employment/Day Supports/VR Section" where the person receives day support services, the options that were available/considered/visited by the individual, and if the individual chose the day support service. If it was not chosen by the individual, highlight the reasons, circumstances, or barriers that may have contributed and if there are any future steps in place to address where the individual would prefer to receive day supports. If the individual has a legal guardian who makes the decision regarding service settings this should be documented. If the individual and legal guardian do not agree on the choice this should be noted as well.

### Tracking Requirements

Each DDPM will be provided a spreadsheet to complete tracking information for CMS. Upon completion, the spreadsheet will be sent to Karla Kalanek in the DD Division. Throughout this period, the DD Division will check in with the DDPA's to receive status updates. Information to document in the spreadsheet includes the following:

- Date notice was provided to the individual and/or guardian

- Brief summary of choices offered, tours, etc.
- New setting location and provider
- Start date of new location
- Meeting date
- Date of OSP completed

The DD Transition Plan and additional information can be found at <http://www.nd.gov/dhs/services/disabilities/dd.html>.

Future statewide training will be occurring for the new requirements.

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