



North Dakota Statewide Transition Plan for the HCBS Settings Under 1915(c) Waivers

Purpose

The Center for Medicare and Medicaid Services (CMS) issued a final rule that became effective on March 17, 2014 and requires states to review and evaluate Home and Community-Based Services (HCBS) settings, including residential and nonresidential settings that are paid for with funding through North Dakota's six Medicaid 1915(c) waivers. States are required to ensure all HCBS settings comply with the new federal requirements to ensure that all individuals receiving HCBS are integrated in and have full access to their communities, including opportunities to engage in community life, work in integrated environments, and control their own personal resources. The ND Department of Human Services (Department) has created a draft Statewide Transition Plan to assess compliance with the HCBS Settings Rule and identify strategies and timelines for coming into compliance with the new rule.

The federal citation for the new rule is 42 CFR 441.301(c) (4)-(5), and more information on the rules can be found on the CMS website at:

www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

A draft Statewide Transition Plan that applies to all of North Dakota's 1915(c) waivers was open for public comment for 30 days from October 15, 2014 through November 14, 2014 to allow all consumers, providers and stakeholders an opportunity to provide input to the plan. The final plan, which included changes that were made as result of the public comment was submitted to CMS on November 28, 2014.

North Dakota HCBS Background

While North Dakota is the third least populous state, it has the fastest growing population. The U.S. Census Bureau estimates that North Dakota experienced the largest growth in population between 2010 and 2011, increasing by 7.6 percent. North Dakota has five federally recognized tribes within the boundaries of North

Dakota which have independent, sovereign relationships with the federal government and territorial reservations.

North Dakota is in the middle of an oil boom from the Bakken formation located in western North Dakota. This boom has led to job growth and a population influx, but has also caused a rapid increase in housing costs in some areas and a shortage of affordable housing for moderate and low income individuals. The rapid population growth has placed increased demand on social service and human service systems that are trying to assist individuals who have moved to the State without family supports or adequate housing.

North Dakota offers six 1915(c) waivers through its Medicaid program. The six waivers are:

- **Aged and Disabled Waiver:** This waiver helps eligible individuals who would otherwise require nursing home services to remain in their homes or communities.
- **Autism Spectrum Disorder (ASD) Waiver:** Provides services for children with ASD (birth through age seven) living with a primary caregiver. The goal of the waiver is to support the primary caregiver to maximize the child's development and preventing out of home placements.
- **Children's Hospice Waiver:** The goal of the Children's Hospice waiver is to keep children, who have a life limiting diagnosis that maybe less than one year, between the ages of 0 through 21, in their home as much as possible, avoiding lengthy hospital stays and delay or divert institutional care.
- **Medically Fragile Waiver:** The purpose of the waiver for medically fragile children ages 3-18 to provide assistance for families who require long-term supports and services to maintain their medically fragile child in the family home while meeting their child's unique medical needs.
- **Technology Dependent Waiver:** The goal of the Technology Dependent waiver is to adequately and appropriately sustain ventilator-dependent individuals in their own homes and communities and to delay or divert institutional care.
- **Traditional Individuals with Intellectual Disabilities/Developmental Disabilities (IID/DD) Waiver:** Provides an array of provider managed and participant directed services for individuals with intellectual disabilities and related conditions in order to provide individuals of all ages the opportunity to receive community alternatives to institutional placement.

Assessment Process

From April through October 2014, the Department conducted a review and analysis of all settings where HCBS are provided to eligible recipients. The Department conducted surveys of all providers of HCBS residential and non-residential services that focused on each setting's physical location, surroundings, community integration, and other environmental characteristics. In addition, the Department conducted a survey of recipients in the Traditional IID/DD Waiver to assess whether the residential and non-residential settings meet home and community-based (HCB) requirements. For example, the survey asked if recipients are able to access the community as they choose, choose their schedules, freely access their money and food, decorate their residence as they choose, and choose their setting, services, and supports.

In addition, DD Program Managers provided input on each setting to validate the providers' responses. The Department conducted site visits of IID/DD waiver settings for which the State is utilizing the heightened scrutiny process. The Department has conducted site visits to all Aged and Disabled Waiver adult residential service providers and adult day care settings that were not located in a hospital or nursing facility.

The Department reviewed North Dakota Century Code, North Dakota Administrative Code, licensing rules and regulations and other policy materials to identify changes necessary to ensure compliance with the HCBS settings requirements.

Based on this review, the Department identified the settings that:

- a) Fully comply;
- b) With changes, will fully comply;
- c) Presumptively do not comply but North Dakota believes to be community-based (through heightened scrutiny); or
- d) Do not/cannot meet HCB settings requirements

The Division of Developmental Disabilities held two public stakeholder meetings in September 2014 to educate providers and stakeholders about the federal rules and the transition planning process, as well as to discuss preliminary survey results and answer questions. The transition plan was presented to stakeholders at a public meeting on October 15, 2014.

Section 2: Summary of Settings Assessment Results

Table 1: Aged and Disabled Waiver

Service	Service Description
<p><i>Services that fully comply with the regulatory requirements because they are individually provided in the recipient's private home and allow the client full access to community living. Recipients get to choose what service and supports they want to receive and who provides them. Recipients are free to choose to seek employment and work in competitive settings, engage in community life and control their personal resources as they see fit.</i></p>	
Case Management	An individualized process that assesses a recipient's needs, explores service options, determines eligibility, and provides a link between community resources and qualified service providers
Chore Services	Snow removal and heavy cleaning
Emergency Response System	A telephone emergency response system
Environmental Modification	Physical adaptations to the home which will enable the participant to function with greater independence
Extended Personal Care/Nurse Education	Education given by a nurse to an enrolled qualified service provider who provides medical care specific to a recipient's needs
Family Personal Care	Provides for the provision of extraordinary care payments to the legal spouse of a recipient for the provision of personal care or similar services
Home Delivered Meals	Healthy meals delivered to a person's home
Homemaker Services	Housecleaning, laundry and/or cooking meals
Non-Medical Transportation	Provides non-medical transportation and, if needed, a person to go with participants to essential services
Respite Care	Short-term relief provided to full-time caregivers
Specialized Equipment and Supplies	Equipment and supplies to help people live more independently
Transitional Living	Teaches participants skills to live independently in their own home

<p><i>Services that are not provided in the waiver participant's private home, but also fully comply. Institutional Respite complies per 42 CFR 441.301(c)(4)-(5). Supported employment fully complies because services can only be provided in competitive work settings. Receiving this service does not restrict a recipient's full access to community living. Waiver funds are not used to support employment in group homes, training centers or any setting that isolates individuals from the community. Recipients are free to seek competitive employment and receive supports to sustain that employment. Recipients can engage in community life and control their personal resources as they see fit.</i></p>	
Institutional Respite	Short term relief to full time care givers provided in a nursing home or hospital
Supported Employment	Support and training to help people maintain a job
<p><i>Services that, with changes to certain settings, will fully comply with the regulatory requirements because the Department will require remedial strategies and timelines for providers to come into full compliance.</i></p>	
Adult Family Foster Care	Assistance with personal care and other supportive services provided in a licensed private single family home by a care provider that lives in the home to no more than four individuals
Adult Residential Care	Care in a residential setting focusing on people with memory loss and traumatic brain injury. The size of the settings range from a capacity to serve between 10 and 36 individuals
<p><i>Services that do not / cannot comply with the regulatory requirements because they are provided in a hospital or nursing facility.</i></p>	
Adult Day Care	Minimum of three hours per day of supervised care in a group setting. Eight of the ten currently enrolled adult cares do not comply because they are provided in a hospital or nursing facility. Please note: two adult day care settings fully comply because recipients receive services in a way that allows access to the greater community. Recipients are free to choose what services and activities they want to participate in and who provides them. The setting does not restrict a recipient's full access to community living.

Table 2: Autism Spectrum Disorder Waiver

Service	Service Description
<p><i>Settings within these services fully comply with the regulatory requirements because they are individualized services provided in the recipient's private home and allow full access to community living according to their needs and preferences. Recipients or their primary caregiver get to choose what services and supports they want to receive and who provides them.</i></p>	
Assistive Technology	Equipment and supplies to help people live more independently
Program Design and Monitoring	Communicates with family, observes child's needs, and designs programming fit for in-home implementation. Writes the behavioral intervention plan
Respite	Short-term relief provided to full-time caregivers
Service Management	An individualized process that assesses a participant's needs, explores service options, determines eligibility, and provides a link between community resources and qualified service providers
Skills Training	Direct service designed to assist participants in acquiring, retaining and generalizing the self-help, socialization, cognitive, communication, organizational skills and the positive behaviors necessary to function successfully in home and community settings

Table 3: Children’s Hospice Waiver

Service	Service Description
<p><i>Settings within these services fully comply with the regulatory requirements because they are individualized services provided in the recipient’s private home and allow full access to community living according to their needs and preferences. Recipients or their primary caregiver get to choose what services and supports they want to receive and who provides them.</i></p>	
Bereavement Counseling	Counseling for individual and family in dealing with and adjusting to the possible loss of child to death and the aftercare of family due to the death of child (this service can be provided either in the participant’s home or within the community, based on the choice of the participant and/or legal guardian; both settings are fully compliant with the regulatory requirements)
Case Management	Service to assist the individual and family by providing information, referral and support
Equipment and Supplies	Focus of equipment is for easing of pain, assisting with child’s independence, or strength building supplies are those needs that are not covered under State Plan
Hospice	This service mirrors traditional hospice services within an individual’s home, except for the continued curative measures would also be available
Palliative	Supportive medical, health and other care provided to child and their family to meet the special needs arising out of the physical, emotional, spiritual and social stresses experienced during the final stage of illness and during dying and bereavement so that when and where possible the child may remain at home
Respite	Child must be residing in legally responsible care givers home and service of respite must occur within this home. Service provides temporary relief to the legally responsible care giver.
Skilled Nursing	This nursing service is completed by a LPN or a RN and is available once the State Plan service has been maximized. This service is utilized if the individuals’ needs are greater than those completed by Home Health Aides yet not as encompassing as Hospice nursing or Palliative nursing needs.
<p><i>Services that are not provided in the waiver participant’s private residence, but also fully comply</i></p>	
Expressive Therapies	The use of art practices that give a child the ability to express and explore their own medical conditions by the use of their imagination and multiple creative expressions. Focus is on living with and coping with diagnosis - siblings of individual are also able to attend sessions.

Table 4: Medically Fragile Waiver

Service	Service Description
<p><i>Settings within these services fully comply with the regulatory requirements because they are individualized services provided in the recipient's private home and allow full access to community living according to their needs and preferences. Recipients or their primary caregiver get to choose what services and supports they want to receive and who provides them.</i></p>	
Case Management	Provides a variety of activities such as intake, case planning, on-going monitoring and review of supports, services to promote quality and outcomes and planning for and implementing changes in supports and services for the family / recipient while in their home
Dietary Supplements	Supplements provided up to 51% of recipient nutritional intake or disease specific while the child is in their home
Environmental Modification	Provides assistance in modifying the family home/ vehicle to enhance the eligible child's ability to function as independently as possible in their home
Equipment and Supplies	Provides adaptive items for daily living, environmental control items, personal care items and such to enhance their home for better independence of recipient
In-Home Supports	Enables a child who has a serious medical condition to remain in and be supported in their family home
Individual and Family Counseling	Address needs related to the stress associated with the child's extraordinary medical needs which will support the continued integration of the child in their home
Transportation	Enables individuals to access essential community resources or services in order to maintain themselves in their home
<p><i>Services that are not provided in the waiver participant's private residence, but also fully comply</i></p>	
Institutional Respite	Provide temporary relief to the recipient's legally responsible caregiver (complies with the setting rules per 42 CFR 441.301(c) (4)-(5))

Table 5: Technology Dependent Waiver

Service	Service Description
<p><i>Services that fully comply with the regulatory requirements because they are individually provided in the recipient’s private home and allow the client full access to community living. Recipients get to choose what service and supports they want to receive and who provides them. Recipients are free to choose to seek employment and work in competitive settings, engage in community life and control their personal resources as they see fit.</i></p>	
Attendant Care Service	Hands-on supportive and medical care specific to a recipient who is ventilator dependent for a minimum of 20 hours per day. Attendant care services include nursing activities that have been delegated by the nurse manager.
Case Management	An individualized process that assesses a recipient’s needs, explores service options, determines eligibility, and provides a link between community resources and qualified service providers
Non-medical Transportation	Provides a ride to essential services
Specialized Equipment and Supplies	Equipment and supplies to help people live more independently

Table 6: Traditional IID/DD Waiver

Service	Service Description
<p><i>Settings within these services fully comply with the regulatory requirements because they are individualized services provided in the recipient's private home and allow full access to community living according to their needs and preferences. Recipients or their primary caregiver get to choose what services and supports they want to receive and who provides them. Recipients, who are age-appropriate, are free to choose to seek employment and work in competitive settings, engage in community life and control their personal resources as they see fit.</i></p>	
Behavioral Consultation	Expertise, training and technical assistance in natural environments (home, grocery store, community) to assist primary caregivers, and other natural supports to develop an intervention plan designed to address target behaviors
Environmental Modifications	Physical adaptations to the home or vehicle which will enable the individual to function with greater independence
Equipment and Supplies	Equipment and supplies to help participants to remain in and be supported in their home
Extended Home Health Care	Service provides skilled nursing tasks that cannot be delegated to unlicensed personnel. Nursing assessment and care plan are required.
Family Care Options	The participant is in another family home meeting the licensing standards for Family or Adult Foster Care on a part-time or full-time basis. The participant's family retains all rights and this service is used when eligible waiver participants less than 21 years of age cannot remain in their natural family home on a full-time basis. This is not considered boarding care according to the definition of the ND Department of Public Instruction and not considered child deprivation according to Child Protective Services.
Homemaker Services	Housecleaning, laundry and/or cooking meals
In-Home Supports	In-home supports that assist the primary caregiver by providing relief care (respite) when the primary caregiver is not present or when the primary caregiver is present and needs a second pair of hands to assist the participant in activities of daily living and maintaining health and safety
Infant Development	Home-based, family focused service that provides information, support and training to assist primary caregiver(s) in maximizing the child's development utilizing a parent-coaching model
Parenting Support	Assists participants who are or will be parents in developing appropriate parenting skills

Transportation Costs for the Financially Responsible Caregiver	Reimburses financially responsible caregivers for expenses incurred due to necessary medical appointments outside their community, such as mileage, lodging, etc. identified in the participant's plan
<i>Certain settings within these services will require changes to fully comply with the regulatory requirements because the Department will require remedial strategies and timelines for providers to come into full compliance</i>	
Adult Family Foster Care	Assistance with personal care and other supportive services provided in a licensed private single family home by a care provider that lives in the home and provides care to no more than four individuals
Extended Services	On- or off-the-job employment-related support for individuals needing intervention to assist them in maintaining employment, including job development, or replacement in the event of job loss.
Residential Habilitation	Includes the following services: Congregate Care, Minimally Supervised Living Arrangements, Transitional Community Living Facility, Supported Living Arrangement, Individualized Supported Living Arrangements, and Family Care Option III; services are provided in licensed/unlicensed community residential settings that include group homes and homes leased, owned or controlled by individuals.
<i>Certain settings within these services are presumptively non-home and community based, but North Dakota believes they are community-based and will provide justification to show these settings do not have the characteristics of an institution and do have the qualities of home and community based settings (heightened scrutiny)</i>	
Day Supports	Habilitation services for individuals with developmental disabilities furnished in a non-residential setting, separate from the home where the individual resides, but may be furnished in the individual's home if the individual's needs preclude traveling from the home on a regular basis
Residential Habilitation	Service is described above
<i>Certain settings within these services do not / cannot comply with the regulatory requirements because they are in an institutional setting</i>	
Adult Day Health	Minimum of three hours per day of supervised care in a group or congregate setting
Day Supports	Service is described above

Section 3: Assessment Results, Proposed Remedial Strategies and Timelines

The three tables below summarize the results of North Dakota's assessment of HCBS settings that were not already determined to be compliant.

- Table 7 lists the settings that, with changes, will comply with HCBS requirements, and the remedial strategies that will be employed to bring the settings into compliance.
- Table 8 lists the settings that, while presumed by CMS to be non-compliant, the Department believes are in fact community-based and provides justification for why these settings should be considered HCBS, and how the State has come to its determination.
- Table 9 lists the settings that are not and cannot become HCB settings and the Department's plans to relocate individuals if necessary in these settings to other HCB settings.

Table 7: Settings that, With Changes, Will Comply with HCBS Requirements

Name of Service (Applicable Waiver)	Total # of Settings Not Compliant	Areas Where Remediation is Needed to Comply with HCB Characteristics	Remedial Strategies to Bring Providers Into Compliance	Remedial Strategies for Providers Who are Unable to Comply	Timeline for Completion	Assuring Compliance	Key Stakeholders	Ongoing Monitoring
<p>Adult Family Foster Care (AFFC) (Aged/Disabled Waiver and Traditional IID/DD Waiver)</p>	<p>38 AFFC Homes (No more than 4 residents per home) 32 Recipients are Receiving AFFC Statewide</p>	<p>Changes are needed in regard to the experience of the residents to allow for more control of recipient schedules, access to funds, choice of meals, access to phone at any time, access to visitors day or night, curfews, and entrance doors to private areas that lock</p>	<p>The Department will conduct training for licensing entities, case managers, and licensed AFFC providers on settings requirements.</p>	<p>Providers who are unable to make necessary changes to comply will be informed that they are no longer eligible to accept MA recipients. Case managers will work with waiver recipients who receive services in these settings to explore options to move to a setting that does comply or to choose other services. The AFFC provider will be required to give a 30-day notice to the recipient, per landlord-tenant laws, that they will need to find alternative housing.</p>	<p>Aug 2014</p>	<p>The Department will keep a roster of attendees and dates of training to track attendance.</p> <p>The Department will review AFFC house rules submitted by AFFC providers:</p> <p>Modified rules and policy will be published on State website.</p>	<p>The Department, DD Program Managers, HCBS Case Managers, Human Service Center licensing unit, Adult Family Foster Care Providers, Consumers, Advocacy Organizations</p>	<p>Licensing entity will conduct home visits required for licensure & re-licensure. Re-licensure occurs every two years. Licensing visits will include HCBS setting experience interviews with all AFFC recipients.</p> <p>New rules will be incorporated into the AFFC licensing requirements and will be applied to all new and renewed licenses.</p> <p>Case Managers will monitor recipient experience and setting requirements at face to face quarterly visits.</p>
			<p>The Department will require modified AFFC house rules to be sent to the Department.</p>		<p>Jan 2015</p>			
			<p>The Department will promulgate AFFC Administrative Rules to modify licensing standards to match HCB setting requirements. State Medicaid Agency (SMA) will update policy to reflect changes in administrative rule. Once rules are finalized State will conduct training with licensing entities to assure understanding of new rules and licensing requirements.</p>		<p>Oct 2016</p>			

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	38 AFFC Homes 32 Recipients are Receiving AFFC Statewide	Changes are needed to comply with the need for a lease or legally enforceable agreement that provides protection to address the eviction process and comply with ND landlord-tenant laws	<p>The Department will provide training and sample lease agreements that comply with ND law to AFFC providers</p> <p>AFFC providers will secure a signed lease or other written rental agreement that includes the eviction process, which must be compliant with ND eviction law (NDCC chap. 47-32)</p>	Providers who are unable to make necessary changes to comply will be informed that they are no longer eligible to accept MA recipients. Case managers will work with Waiver recipients who receive services in these settings to explore options to move to a setting that does comply or to choose other services. The AFFC provider will be required to give a 30-day notice to the recipient, per landlord-tenant laws, that they will need to find alternative housing.	<p>Jan 2015</p> <p>Jan 2015</p>	<p>The Department will keep a roster of attendees and dates of training to track attendance.</p> <p>Require legally enforceable agreements to be sent to The Department. Agreements will be reviewed by SMA staff, with guidance from the Legal Advisory Unit, for compliance with ND landlord/tenant law.</p>	The Department, DD Program Managers, HCBS Case Managers, Human Service Center licensing unit, Adult Family Foster Care Providers, Consumers, Advocacy Organizations	<p>Lease agreements will be required to be submitted as part of the requirements for new and renewed AFFC licenses.</p> <p>Case Managers will assure that lease agreements are in place for all recipients when they initially begin using services and during annual assessments conducted in the AFFC home.</p>
<p>Adult Residential Services</p> <p>(Aged/Disabled Waiver)</p>	12 Adult Residential Service Providers	Changes are needed in regard to the experience of the recipient to allow for more control including, access to food /snacks at any time, access to phone at any time,	State will conduct training with licensing entities to assure understanding of new rules and licensing requirements	Providers who are unable to make necessary changes to comply will be informed that they are no longer eligible to accept MA	Jan 2015	<p>The Department will keep a roster of attendees and dates of training</p> <p>ND Department of Health will assure</p>	State Medicaid Agency, Department of Health, Long Term Care Association, HCBS Case Managers,	Setting requirements will be added to the Adult Residential provider standards for enrollment. State staff will conduct site

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	<p style="text-align: center;">#</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: left;"><u>Recipient/Fac</u></td> <td></td> </tr> <tr> <td>0-10</td> <td style="text-align: center;">1</td> </tr> <tr> <td>11-20</td> <td style="text-align: center;">5</td> </tr> <tr> <td>21-30</td> <td style="text-align: center;">3</td> </tr> <tr> <td>31-36</td> <td style="text-align: center;">3</td> </tr> </table> <p style="text-align: center;">100 Waiver Recipients are Receiving Services Statewide</p>	<u>Recipient/Fac</u>		0-10	1	11-20	5	21-30	3	31-36	3	<p>allowing for entrance doors to recipients private areas that lock.</p>	<p>The Department will work with the Department of Health (licensing and surveying entity) to update regulatory documents to assure compliance with HCB characteristics.</p>	<p>recipients.</p> <p>Case managers will work with Waiver recipients who receive services in these settings to explore options to move to a setting that does comply or to choose other services. The Adult Residential provider will be required to give a 30-day notice to the recipient, per landlord-tenant laws, that they will need to find alternative housing.</p>	<p style="text-align: center;">Aug 2017</p>	<p>compliance through the scheduled survey process.</p> <p>Modified rules will be published on State website.</p>	<p>Adult Residential Service Providers</p>	<p>visits upon initial enrollment and at renewal (every 2 years). Summary of site visits results will be posted on Department's website.</p> <p>Case Managers will monitor recipient experience and setting requirements at quarterly face-to-face visits.</p> <p>Department of Health would assure compliance through the scheduled onsite survey process.</p>
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	<p>12 Adult Residential Service Providers</p> <p>100 Waiver Recipients are Receiving Services Statewide</p>	<p>Changes are needed to comply with the need for a lease or legally enforceable agreement that provides protection to address the eviction process and comply with ND landlord-tenant laws</p>	<p>Adult Residential Service providers will secure a signed lease or other written rental agreement that includes the eviction process, which must be compliant with ND eviction law (NDCC chap. 47-32). The Department will provide sample lease agreements that comply with ND law to adult residential providers.</p>		<p>Jan 2015</p>	<p>Require legally enforceable agreements to be sent to Department of Human Services; Agreements will be reviewed by Department staff with guidance from Legal Advisory unit, for compliance with ND landlord/tenant law.</p>	<p>State Medicaid Agency, Department of Health, Long Term Care Association, HCBS Case Managers, Adult Residential Service Providers, ND Housing Authority</p>	<p>Case Managers will be responsible to assure there is a current lease agreement for all recipients when they initially begin using the services and annually thereafter during home visits.</p>

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<p>Extended Services (Traditional IID/DD Waiver)</p>	<p>2 Settings</p>	<p>Changes are needed in regard to the experience of the recipient to allow more community interaction</p>	<p>The Department will provide Technical Assistance and training to providers to ensure more community interaction. The training will address the specific non-compliance identified at the provider location.</p>	<p>Providers who are unable to make necessary changes to comply will be informed that they are no longer eligible to accept MA recipients.</p>	<p>September 2015</p>	<p>The Department will keep a roster of attendees and dates of training to track attendance.</p>	<p>DD Division, DD Program Administrators, DD Program Managers, DD Providers, Guardians, Individuals</p>	<p>The DD Program Managers will monitor recipient community interactions during their face visits.</p>
			<p>The Department will conduct statewide training for providers, Individuals, advocates, families/guardians, and DD Program Managers on the overall components of the new CMS rules</p>	<p>DD Program Managers will work with individuals who receive services in these settings to explore options to move to a setting that does comply or to choose other services.</p>	<p>Code updates: Dec 2016; Policy updates: beginning Jan 2016</p>	<p>The DD Program Managers will conduct site visits to assess compliance with community interaction during their face to face visits.</p>		<p>New rules will be incorporated into the licensing requirements and will be applied to all new and renewed licenses.</p>
			<p>The Department will update licensing Administrative Code, policies, and manuals.</p>					<p>As additional guidance for non-residential settings is provided by CMS, the Department will ensure these services and settings comply with regulations.</p>

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			<p>The Department plans to add additional IID/DD waiver services that will incentivize providers to expand opportunities for individuals to work in integrated, competitive employment settings, by partnering with local business and providing the necessary training and support for individuals.</p>		December 2015			
			<p>If individuals are in an identified setting that doesn't meet HCB requirements or needs changes, the Department will notify the individual/guardian and if needed Teams will meet to work toward the compliance.</p>					

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Residential Habilitation (Traditional IID/DD Waiver)	96 Provider-Owned Community Residences	Changes are needed to ensure that all provider-owned residential settings: a) Provide a lease or legally enforceable agreement that complies with ND landlord-tenant laws (NDCC chap. 47-32).	The Department will update licensing Administrative Code, policies, and manuals.	Providers who are unable to make necessary changes to comply will be informed that they are no longer eligible to accept MA recipients.	Code updates: Dec 2016; Policy updates: beginning Jan 2016	New providers will submit lease policies and a template lease as part of their License application.	DD Division, DD Program Administrators, DD Program Managers, DD Providers, DHS Legal Service units, families/guardians, individuals	The Department will strengthen licensing renewal procedures to ensure ongoing compliance.
			The Department will provide sample lease agreements and information about ND's landlord-tenant laws to providers.	DD Program Managers will work with individuals who receive services in these settings to explore options to move to a setting that does comply or to choose other services. The Residential Habilitation provider will be required to give a 30-day notice to the recipient, per landlord-tenant laws, that they will need to find alternative housing.	June 2015	The Department will review providers' lease templates for compliance with ND landlord/tenant law.		The Department will update the Environmental Scan Checklist to include lockable doors.
			Providers will submit lease policies and a sample lease template to the Department.	July 2016	The Department will conduct site visits to assure changes were made (e.g., locks added to doors).			
			Providers that do not demonstrate compliance will be required to submit a Plan of Correction to the Department.	September 2016	The Department will keep a roster of attendees and dates of training to track attendance.			

Name of Service (Applicable Waiver)	Total # of Settings Not Compliant	Areas Where Remediation is Needed to Comply with HCB Characteristics	Remedial Strategies to Bring Providers Into Compliance	Remedial Strategies for Providers Who are Unable to Comply	Timeline for Completion	Assuring Compliance	Key Stakeholders	Ongoing Monitoring
		b) Have lockable bedroom doors	The Department will conduct statewide training for providers, individuals, advocates, families/guardians, and DD Program Managers on the overall components of the new CMS rules.		Sept 2015			
			If individuals are in an identified setting that doesn't meet HCB requirements or needs changes, the Department will notify the individual/guardian and if needed Teams will meet to work toward the compliance.		July 2016			
			The Department will conduct statewide training for providers, consumers, advocates, families/guardians, and DD Program Managers on the overall components of the new CMS rules.		Sept 2015			

Table 8: Settings that are Presumably Not HCBS for Which the State is Submitting Justification to Refute Presumption

Name of Service (Applicable Waiver)	Total # of Settings	Reason for Presumed Noncompliance	Justification that Setting is In Fact Community-Based	Assuring Compliance	Timeline
<p>Residential Habilitation</p> <p>(Traditional IID/DD Waiver)</p>	<p>4 settings with 8 individuals</p>	<p>Located on the grounds of, or adjacent to, an Intermediate Care Facility (ICF)</p>	<p>While these settings are located on the grounds of, or adjacent to, a State ICF, individuals at these settings all have full access to the community according to their needs and preferences. The Department conducted surveys of a sample of residents in each setting, and has determined that their location does not have the effect of isolating the residents from the community. Individuals participate in community events, take trips, have hobbies, belong to local clubs, or work in the community. Resident survey results indicate that they are afforded maximum independence, control of their schedules, and access to food / visitors at any time.</p>	<p>The Department collected input from DD Program Managers and providers regarding the community-based nature of each setting and has determined that their location does not have the effect of isolating the residents from the community.</p>	<p>June–August 2014</p>
			<p>Additionally, the state completed an on-site visit (observation and visits with consumers) which validated the position that these settings do not isolate and have HCB qualities and characteristics. Individuals participate in a variety of community activities off the grounds of the State ICF, their schooling and day supports/work activities are located off the grounds of the State ICF, the homes reflect their individualized personalities, they have full access within their homes, and have visitors as they choose. These settings do not limit the individuals and have full access to the community. Visits with consumers were all positive, including indicating they were</p>	<p>The individuals who currently reside in these settings are assessed at least annually to determine if alternative service settings in the community are available and are afforded choice; including tours/visits to determine if they would like to move.</p>	<p>August – September 2014</p>

Name of Service (Applicable Waiver)	Total # of Settings	Reason for Presumed Noncompliance	Justification that Setting is In Fact Community-Based	Assuring Compliance	Timeline
			<p>happy where they lived and individuals/guardians have made choices. A consumer voiced how he had lived elsewhere before and did not like it-enjoying where he lives now as people are nice and he can get out and do his own things.</p> <p>Staff is provided by independent DD Providers in three of the four settings. Not all residents receive housing assistance. These settings are used as a stepping stone for individuals who have been unable to successfully secure housing or services off the grounds of the State ICF. The settings are either single family homes or an apartment. Some of the homes are located among homes whose occupants do not have disabilities.</p> <p>The grounds of the State ICF are no longer used solely for individuals with intellectual and developmental disabilities. Two buildings have been converted into apartment buildings, are owned by private landlords and utilized by the general public. Other businesses are also integrated throughout. There are public clinics, offices, and day care centers for children. Two additional buildings are currently being projected for community use as well. Additionally, the fitness center, which is operated by the center, is open and very well utilized by the community. There is no physical barrier surrounding buildings and grounds of the State ICF.</p>	<p>The Department will conduct site visits of each setting (observations and visits with individuals) to verify provider survey, results of DD Program Manager assessments and resident interviews.</p>	<p>October – November 2014</p>

Name of Service (Applicable Waiver)	Total # of Settings	Reason for Presumed Noncompliance	Justification that Setting is In Fact Community-Based	Assuring Compliance	Timeline
Day Supports (Traditional IID/DD Waiver)	1 Day Facility with 17 individuals	Located on the grounds of, or adjacent to, an ICF	<p>While this day facility is on the grounds of the State ICF, individuals are active in the community throughout the day with a focus on social roles and volunteering. The day program is located in a building separate from the residential settings. The grounds of the State ICF are no longer used solely for individuals with intellectual and developmental disabilities. Two buildings have been converted into apartment buildings, are utilized by the general public and owned by private landlords. Other businesses are also integrated throughout. There are public clinics, offices, and day care centers for children, Two additional buildings are currently being projected for community use as well. Additionally, the fitness center, which is operated by the center, is open and very well utilized by the community.</p>	<p>The Department collected input from DD Program Managers and providers regarding the community-based nature of each setting and has determined that their location does not have the effect of isolating the residents from the community.</p>	June-August 2014
			<p>The Department conducted surveys of a sample of recipients regarding the experiences and environmental characteristics of the Day Facility, and has determined that recipients have frequent community interaction and are afforded maximum independence. The individuals access the community frequently throughout the day based on their preferences and needs. Community experiences include volunteering with elderly and children groups, church functions, civic organizations and boards, food pantry, local fairs and celebrations, and numerous other community events. The provider maintains close involvement with the city, and economic partners in the community.</p>	<p>The individuals who currently access this day program are assessed at least annually to determine if alternative settings in the community are available and are afforded the choice, including tours/visits to determine if they would like to receive services at another location. .</p>	August – September 2014
			<p>Additionally, the state completed an on-site visit (observation and visits with consumers) which validated the position that these settings do not isolate and have HCB qualities and characteristics. There is a focus on social roles, volunteering, meeting the individual needs and preferences, and choice of activities. In addition to the on-site visits, some plans were reviewed and individual’s choice of services was documented.</p>	<p>The Department will conduct site visits of each setting (observations and visits with individuals) to verify the results of the provider survey, DD Program Manager assessments and resident interviews.</p>	October – November 2014

Table 9: Settings that Do Not/Cannot Meet HCBS Requirements

Name of Service (Waiver)	Total # of Settings Not Compliant	Remedial Strategies for Providers Who Are Not Able to Meet Requirements	Remedial Strategies for Recipients Receiving Services in Non-Compliant Settings	Key Stakeholders	Timeline for Completion	Assuring Compliance	Ongoing Monitoring
<p>Adult Day Care (Aged/Disabled Waiver)</p>	8	<p>Policy will be updated and providers and case management entities will be informed that services cannot be authorized for Medicaid waiver recipients in these settings.</p>	<p>No remediation necessary as no waiver recipients are currently utilizing waiver services in non-compliant adult day care settings located in a hospital or nursing home.</p>	<p>State Medicaid Agency, HCBS Case Managers, Adult Day Care Providers</p>	December 2014	<p>State will monitor care plans to assure that recipients are not authorized services in non-complaint settings.</p>	<p>State will monitor care plans to assure that recipients are not authorized services in non-complaint settings.</p>
<p>Day Supports (Traditional IID/DD Waiver)</p>	4 settings with 5 individuals	<p>Providers and DD Program Managers will be informed that services cannot be authorized for Medicaid waiver recipients in ICF settings</p>	<p>The individuals receiving day supports in these settings will be relocated to other community-based settings. Individuals/guardians will be provided with reasonable written notice and a choice among alternative Day Support services and providers that meet the individual's needs, preferences, and HCB setting requirements. Individuals will have the opportunity to interview and tour potential providers to make an informed decision.</p> <p>Once a new setting/provider is selected, an admission plan will be developed according to assist in a seamless transition.</p>	<p>DD Division, DD Program Administrators, DD Program Managers, DD Providers, DHS Legal Service units, Individuals, Guardians</p>	March 2017	<p>The Department will monitor individual service plans to assure that recipients are not authorized services in non-compliant settings</p>	<p>The Department will monitor individual service plans to assure that recipients are not authorized services in non-compliant settings</p>
<p>Adult Day Health (Traditional IID/DD Waiver)</p>	0 settings with 0 individuals	<p>Providers and DD Program Managers will be informed that services cannot be authorized for Medicaid waiver recipients in a hospital or nursing facility. No waiver recipient has utilized this service since 2011.</p>	<p>No remediation necessary as no waiver recipients are currently utilizing waiver services.</p> <p>The Department will amend the Traditional IID/DD waiver to no longer include this service.</p>	<p>DD Division, DD Program Administrators</p>	December 2015	<p>The Department will monitor individual service plans to assure that recipients are not authorized services in non-compliant settings.</p>	<p>The Department will monitor individual service plans to assure that recipients are not authorized services in non-compliant settings.</p>

Section 3: Public Input Process

The Department provided opportunity for public comment on the proposed Statewide Transition Plan during the 30 day public comment period beginning October 15, 2014 through November 14, 2014. The proposed Statewide Transition Plan was sent to tribal entities and other stakeholders. The plan was available for public comment online and upon request at <http://www.nd.gov/dhs/info/pubs>

A summary of all comments received during the public comment period were added to the proposed Statewide Transition Plan and submitted to CMS on November 28, 2014. The state provided a summary of public comments, including comments that agree/disagree with the State's determinations about settings that do/do not meet the HCBS requirements. A summary of the modifications made to the proposed Statewide Transition Plan resulting from response to the public comment were provided by the Department. If the Department determination differed significantly from the public comment, the information the state used to confirm its determination was included.

The state posted the final Statewide Transition Plan with modifications from public comment to the Department's web site on November 28, 2014. All public comments on the provisional Transitional Plan will be retained and are available for CMS review for the duration of the transition period or approved waiver.

Comments and public input on this proposed Statewide Transition Plan was accepted in the following ways:

Email: DSHHCBS@ND.GOV

Phone: (800)-755-2604 or (701)-328-4602

Fax: (701)-328-4875

Mail: ND DHS Medical Services Division, 600 E Boulevard Ave Dept. 325, Bismarck, ND 58505-0250

11/28/2014

Summary of Public Comment

This document contains a summary of the public comments collected in response to the North Dakota Draft Statewide Transition Plan for the HCBS Settings Under 1915(c) Waivers (the Statewide Transition Plan). The Statewide Transition Plan was submitted to the public on October 15, 2014. In accordance with CMS guidance, the Transition Plan was made available for public comment on this day for 30 days to allow all consumers, providers and stakeholders an opportunity to provide input to the plan. During this time, the Department of Human Services (DHS) received comments from nine organizations or individuals. All comments pertained to the Aged and Disabled and/or Traditional IID/DD Waivers. No comments were related to the ASD Waiver, Children's Hospice Waiver, Medically Fragile Waiver, or the Technology Dependent Waiver.

Based on public comment, the Department has made changes to the Statewide Transition Plan and it is posted at <http://www.nd.gov/dhs/info/pubs/medical.html>

The Department assures that modifications made as a result of public input were posted for public information on the same date of submission to CMS and that all public comments on the Statewide Transition Plan will be retained and available for CMS review.

Public comments were received from the following individuals or organizations:

- The Arc of North Dakota
- Protection and Advocacy Project
- AARP North Dakota
- Pathfinder Parent Center
- Designer Genes
- LTC Association
- Prairie St. Johns, Fargo
- Parents of consumers

The following summary of public comments received by the Department includes comments in disagreement with the Department's determinations about settings that do/do not meet the HCBS requirements, comments for which the Department made updates to the Statewide Transition Plan, and comments that did not result in changes to the Statewide Transition Plan. Any comments that were duplicated or addressed the same topic were summarized and included in one statement.

Public Comments in Disagreement with the State's Determination

One commenter disagrees with the Department determination that Aged and Disabled adult residential care settings can fully comply while serving between 10-36 individuals each, contending that even with remedial strategies and timelines just based on size these are "mini-institutions". Commenter believes these settings need heightened scrutiny and that individuals should be able to receive service in their own home or apartment.

- DHS Response: As stated in CMS's summary of these regulations, the intent of the HCBS settings rule is to create a more outcome-oriented definition of home and community-based settings, rather than one based solely on a setting's location, geography, or physical characteristics. When assessing compliance of adult residential service settings DHS focused on the recipient's experience rather than the size of the facility. Individuals can access other waived services to meet their assessed needs. Consumers and their families make the decisions about what type of services they wish to participate in and who will provide the care; including the decision to use residential services.

Three commenters disagree with the State's determination that the IID/DD HCB residential settings located on the grounds of or adjacent to the State ICF, do not have the effect of isolating. One commenter stated the Statewide Transition Plan indicates individuals are afforded maximum independence, control of their own schedules, and access to food/visitors at any time. Yet the Transition Plan also indicates individuals who currently reside in these settings are assessed at least annually to determine if alternative service settings in the community are appropriate. The commenter wondered why the individuals are not able to live in similar settings off of the campus.

- DHS Response: In addition to the information provided in the Statewide Transition Plan on the settings that are presumed not to be HCB, on-site visits were conducted of the settings in question which validated the Department's position that these settings are not isolating and do have HCBS qualities and characteristics. Some individuals living on the grounds of the State ICF have been unable to successfully secure housing or services off the grounds of the State ICF, which is less restrictive than living in the State ICF. Other individuals\guardians have made the choice to receive services in these settings. The individuals are assessed at least annually to determine if alternate service settings are available and are afforded the choice, including tours/visits, to determine if they would like to move. The Department will enhance this area of the Statewide Transition Plan and will also post a summary of the on-site visits that were conducted on the Department's website.

Two commenters disagree that the IID/DD day settings located on the grounds of the State ICF can be justified as community-based and should be considered as do not/cannot meet HCBS requirements. One commenter stated individuals have maximum independence, have choices to do what they want but are not able to receive similar service in the community vs. on the institution's campus and through the institution as the provider.

- DHS Response: In addition to the information provided in the Statewide Transition Plan on the setting that are presumed not to be HCB, on-site visits were conducted of the settings in question which validated the Department's position that these settings are not isolating and do have HCB qualities and characteristics. The individuals are assessed at least annually to determine if alternate service settings are available and are afforded the choice, including tours/visits, to determine if they would like to receive services at another location. The Department will enhance this area of the Statewide Transition Plan and will also post a summary of the on-site visits that were conducted on the Department's website.

Public Comments that Resulted in Changes to the Statewide Transition Plan

One commenter requested that DHS provide sample lease agreements to all Aged and Disabled Adult Residential providers.

- DHS Response: The Statewide Transition Plan was modified to state that DHS will provide sample lease agreements to all Adult Residential providers.

One commenter requested that consumer and advocacy organizations be included as key stakeholders for the remediation of Aged and Disabled and IID/DD AFFC settings. One commenter feels consumers and advocacy organizations should be included in teams who make licensure visits.

- DHS Response: DHS will add consumer and advocacy organizations to the Statewide Transition Plan list of stakeholders for Adult Family Foster Care. The Department will modify AFFC licensing rules to require the licensing entity to conduct on site interviews with AFFC recipients about their experience in the home as it relates to the setting requirements. The results of the interviews will be submitted as part of the AFFC licensing requirements and any issues will be addressed before an unrestricted license can be issued. ND Century Code dictates that the Department is responsible for licensing AFFC homes.

One commenter would like consumer, families, and advocate organizations included in assessing Aged and Disabled Adult Residential Settings compliance with federal regulations.

- DHS Response: DHS will conduct site visits to all Adult Residential sites upon initial enrollment and reenrollment which occurs every two years. The

Statewide Transition Plan was updated to say that the Department will post a summary of those visits on the Department's website. Consumers, families and advocacy organizations can monitor these results and provide feedback to the Department.

One commenter requested that the final transition plan regarding Aged and Disabled adult residential settings, and Aged and Disabled/IID/DD AFFC settings include additional detail regarding how the plan will impact seniors and disabled populations, how the State will ensure consumers impacted by these changes will receive services in the least restrictive setting, the proposed outcomes of the activities, and the full range of stakeholders who will be involved in implementing the changes.

- DHS Response: The Statewide Transition Plan was modified to include the number of AFFC and adult residential recipients who are impacted and to include the full range of stakeholders. The Statewide Transition Plan already states if providers are unable to make necessary changes to comply they will be informed that they are no longer eligible to accept MA recipients. Case Managers/DDPM's will work with waiver recipients who receive services in these settings to explore options to move to a setting that does comply or to choose other services. All home and community based service options will be considered. The AFFC provider will be required to give a 30-day notice to the recipient, per landlord-tenant laws, that they will need to find alternative housing. DHS anticipates that most, if not all, providers will be willing and able to make necessary changes to fully comply with the rule.

One commenter requested that parents, guardians and individuals be notified as soon as possible regarding any changes to the IID/DD settings as a result of the transition plan and how these changes will impact their situation. Requested that someone help them craft options using a person-centered model.

- DHS Response: If individuals are in an identified setting that does not meet HCBS requirements, the Department will notify the individual/guardian and if needed, teams will meet to work toward the compliance in a person-centered manner. Clarification will be added to the transition plan to address this process.

One commenter stated for IID/DD Extended Services, the strategies seem vague and are mostly limited to training and updating rules, policies, and manuals. Additionally, another commenter stated the training proposed in the plan appears minimal, and unlikely to support the speed and degree of change needed to help day programs become more community-based. A commenter's daughter loves her job at the day center and does not want it to be "ripped away from her."

- DHS Response: For settings where changes are needed, the training will be developed once the Statewide Transition Plan has been approved by CMS and will include the overall components of the new CMS rules which includes individuals choices, consumer rights, and will address the specific noncompliance identified. For the day program settings that do not comply the Department's proposed timeline to transition individuals to new settings is March 2017. The Department will enhance this language of the Statewide Transition Plan.

One commenter expressed concern over the use of the phrase "stepping stone" used in the justification of the IID/DD residential settings that are on the grounds of or adjacent to the State ICF.

- DHS Response: The Department's intent in using the phrase "stepping stone" is for individuals who are unable to successfully secure housing or services off the grounds of the State ICF. The HCB settings on the grounds of the State ICF are less restrictive than living in the State ICF. Individuals living in these settings are assessed at least annually to determine if alternate service settings are available and are afforded the choice, including tours/visits, to determine if they would like to move. Language will be added to clarify this in the Transition Plan.

Three commenters request that consumers, family members, and other advocates be included in the IID/DD process and felt the process should be more transparent. One commenter would like to partner with DHS to train consumers, families, and guardians regarding person-centered planning.

- DHS Response: The Department used the guidance provided within the CMS tool kit to develop the process and plan. The Department also conducted two stakeholder meetings that provided information on the rules, process, preliminary results and to obtain feedback from stakeholders towards the transition plan. The purpose of the Statewide Transition Plan is to address setting compliance and does not include the person centered planning process. The Department will add language to the Statewide Transition Plan to include consumers, advocates, and families to the training components of the rules.

Public Comments that Did Not Result in Changes to the Statewide Transition Plan

One commenter requested that Aged and Disabled services such as Case Management, Chore Service, Emergency Response Systems, Education Services, Family Personal Care, Meals and Transitional Living Services remain fully funded.

- DHS Response: The Statewide Transition Plan does not impact funding for any of these waiver services.

One commenter asked if information gathered from the Aged and Disabled and IID/DD on-site visits will be made public to give stakeholders an opportunity to comment.

- DHS Response: The Department will post a summary of the site visits that were conducted at adult residential, adult day care, and the settings located on the grounds of the State ICF on the Department's website to develop the Statewide Transition Plan.

One commenter questioned if DHS will have minimum standards for Aged and Disabled and IID/DD AFFC house rules. Commenter questioned if setting does not comply what will happen?

- DHS Response: DHS has minimum licensing standards for AFFC providers. As stated in the Statewide Transition Plan, the Department will promulgate AFFC Administrative Rules to modify licensing standards to match HCB setting requirements. Providers who are unable to make necessary changes to comply will be informed that they are no longer eligible to accept MA recipients. Case Managers/DDPM's will work with waiver recipients who receive services in these settings to explore options to move to a setting that does comply or to choose other services. The AFFC provider will be required to give a 30-day notice to the recipient, per landlord-tenant laws, that they will need to find alternative housing.

Two commenters requested that the State provide copies of survey results used to make the State's determinations and an explanation of the consumer survey methodologies for the IID/DD Waiver. These commenters expressed dissatisfaction with the consumer survey process. One commenter asked who helped consumers complete the survey, and inquired if the questions were easy to understand and available in alternate format.

- DHS Response: The Department provided a summary of the survey results, which included the number of consumers surveyed, questions asked, and the results of the questions. The survey results will be posted on the DHS website. The Department used the guidance provided within the CMS tool kit to develop the process and plan which included the survey questions. Staff from Human Service Centers interviewed consumers about their experiences in a face to face visit. Prior to the development of the transition plan, the Department also conducted two stakeholder meetings for consumers, advocates, and other stakeholders. The process in which these surveys were conducted was shared at the two September 2014 Public Informational meetings. The meetings provided information on the rules, process, and preliminary survey results and was another opportunity to obtain input from the stakeholders for the development of the transition plan.

One commenter recommended that there be an identified complaint process for individuals to address problems in their settings.

- DHS response: DD Program Managers and HCBS Case Managers conduct quarterly visits with consumers which allow opportunities for individuals to file complaints about their settings. In addition, individuals receive a rights and responsibilities brochure that addresses their right to request a fair hearing and contains contact information for the appeals supervisor.

One commenter expressed support for the future expansion of the IDD/DD Extended Services to allow for more opportunities for integrated employment and expressed concern that many clients with Down Syndrome currently move into Day Supports and are not given the opportunity to explore competitive employment.

- DHS Response: The Statewide Transition Plan identified the timeline of December 2015 to add additional employment services.

One commenter asked how IID/DD site visits for the heightened scrutiny process will be conducted, given the current large caseloads for DD Program Managers.

- DHS Response: The heightened scrutiny on-site visits process was completed by the State DD Division. The Department continues to monitor DD Program Manager caseloads and will request additional staff as necessary.

One commenter expressed concern over the consequences this transition plan may have on IID/DD services and individual choice, explaining that the plan could limit appropriate placement. Choices should in no way be limited by government-imposed restrictions. If a person decides to live happily in a place that these restrictions could deem as isolating where does our State have a place to say what is appropriate. Limited funding should not dictate where our family member chooses to live.

- DHS Response: The Department supports personal choice based on individualized strengths and interests. The Department is committed to affording waiver recipients choices within the parameters of the new rule.

One commenter shared her daughter has had eight (soon to be nine) roommates since moving into an IID/DD program at the age of 18. She has had no choice in roommates and only of the nine did she know & would have chosen for herself. The transition plan does not seem to address this issue at all.

- DHS Response: The Department is committed to affording waiver recipients choices within the parameters of the new rule.

Two commenters agreed with identified list of IID/DD settings that do not\ cannot meet HCBS requirements.

- DHS Response: Thank you for feedback on the agreement.

Three commenters commended the State for the thoughtful layout design of the transition plan document; it is easy to read and user-friendly.

- DHS Response: Thank you for the comment on the layout and design.

Two commenters appreciate the efforts on the Department to inform the public about what's happening and that the opportunity to provide comment is open.

- DHS Response: Thank you for your comment regarding the efforts on informing the public.