DEPARTMENT OF HUMAN SERVICES

Minnesota's Home and Community-Based Services Rule Statewide Transition Plan

Disability Services and Aging and Adult Services divisions

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DEPARTMENT OF HUMAN SERVICES

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I. Background

What is the federal HCBS rule?

In January 2014, the federal Centers for Medicare & Medicaid Services (CMS) released a rule regarding home and community-based services (HCBS). The rule requires that people who receive publicly paid long-term services and supports must receive those supports in the most integrated setting and have full access to the benefits of community living. The rule has requirements for person-centered planning, service settings and opportunities for involvement in the community.

What does the rule mean for people who receive public long-term services and supports?

The rule governs certain home and community-based services, which are sometimes called HCBS for short. HCBS are services people receive in a community setting and are an alternative to those provided in an institutional setting, such as a hospital, nursing facility or intermediate care facility for people with developmental disabilities (ICF-DD).

The rule requires that people:

- Have enough information to make informed choices about the type of services they receive
- Are treated with respect and in a person-centered way so that they can make decisions about how, when and where they get their services
- Have the opportunity to be involved in their community, including living and working in integrated settings and coming and going where and when they want

The rule might mean services will change to be more person-centered. Where people live and work might change to give them more opportunities to interact directly with their communities.

Who is affected by the HCBS rule?

This rule applies to people who receive services through the following programs:

- Alternative Care (AC) program
- Brain Injury (BI) Waiver
- Community Alternative Care (CAC) Waiver
- Community Access for Disability Inclusion (CADI) Waiver
- Developmental Disabilities (DD) Waiver

- Elderly Waiver (EW)

Why did CMS make this rule?

The rule assures that home and community-based services are provided differently from institutional services. Even though the service is not provided by an institution, the setting might have qualities that feel like an institution to the person who receives the services. The rule looks carefully at whether the setting for a service isolates the person from the community. Generally, being isolated means that a person is separated or treated differently from other people who live in the community.

What kind of changes might happen?

The rule requires Minnesota to look at all settings and decide if they have institutional qualities. The federal government has given some guidance and examples about what this means. States must look at such things as the location of the setting and other qualities that isolate people from the broader community.

If the state decides some settings are like an institution, it can either:

- Present information to CMS about why the setting should be allowed for waiver recipients (in some cases, the provider might be able to make changes to meet the rule) [Begin add] or [End add]
- Provide a process to support the person while he or she identifies other services or service providers that comply with the new requirements

What additional requirements apply to residential settings?

The rule includes additional standards that apply to residential settings owned or controlled by the provider. These standards relate to qualities such as:

- Eviction and appeals processes
- [Begin Add] Choice of roommate if sharing a unit or a bedroom
- Freedom to furnish and decorate
- Control of daily schedule, including access to food
- The right to have visitors at any time
- The setting's physical accessibility [End Add]
- Individual autonomy with life choices

- Privacy protections

Are there any person-specific exceptions to the standards?

The HCBS settings rule allows the following rights to be modified when people live in settings where they receive customized living, foster care or supported living services:

- Have personal privacy (including the use of the lock on the bedroom door or unit door)
- Take part in activities that he/she chooses and have an individual schedule that includes the person's preferences supported by the service provider (this right cannot be modified in customized living settings.)
- Have access to food at any time
- Choose his/her own visitors and time of visits

The modification must be:

- Necessary to ensure the health, safety and well-being of the person
- Based on a specific and individualized assessed need that is justified in the support plan
- Approved by the person through informed consent

[Begin add] The Minnesota Department of Human Services (referred to as "MN DHS"or "we" throughout this transition plan) developed an HCBS rights-modification support plan attachment form (PDF) for case managers/care coordinators, providers and individuals to document and coordinate rights modifications. We developed a video tutorial to teach case managers that any modification to the requirements will be based on a plan that includes the following:

- Specific and individualized assessed need
- Prior interventions and supports, including less-intrusive methods
- Description of condition proportionate to assessed need
- Ongoing data, measuring effectiveness of modification
- Established time limits for periodic review of modifications
- The persons's informed consent
- Assurance that interventions and supports will not cause harm. [End add]

[Begin Delete]~~All existing settings must comply with the new rule; however, in some cases these requirements may be changed or modified if:~~

- ~~Supported by a specific assessed need~~
- ~~Justified in the person-centered service plan~~
- ~~Documented in the person-centered service plan.~~ [End Delete]

Can states set higher standards for home and community-based settings?

The regulations set the minimum requirements. Minnesota DHS has elected to set higher standards for what constitutes an acceptable HCBS setting for designated new service settings. You may find more details under Tiered standards for providers funded by BI, CAC, CADI or DD waivers in the transition plan.

What is the HCBS rule transition plan?

The federal government is allowing states until March 17, [Begin delete] ~~2019~~ [End delete] [Begin add] 2022 [End add], to comply fully with the new settings requirements. All states, including Minnesota, submitted a transition plan to CMS and are working to refine and agree to steps in the plan. The plan includes a review of current settings as well as all related state regulations and policies. The reviews will determine what changes the state needs to make to comply with the rule.

II. Minnesota's vision

Disability services:

For many years, it was common for people with disabilities to live their lives separately from their families and friends. The few services that were available were mostly provided in institutions. In the 1980s, MN DHS created services to help people leave those institutions. In 2001, the last Minnesotans with disabilities who lived in state-run institutions moved out.

Today, most people with disabilities grow up in their family homes, go to school in their own neighborhoods and have many of the same hopes and dreams as people who don't have disabilities. Yet, the service system hasn't always offered the individualized options or flexibility that would allow those dreams to be realized.

Today, the focus of Minnesota's disability service system is on one person at a time. People want to make informed choices that add to their quality of life and meet their needs to stay healthy, safe and well. The supports and services a person gets should reflect this balance.

The principles of person-centered planning are the foundation of the HCBS rule. These principles further support people's rights to make informed choices and decide what is important both to them and for them.

It also supports the same values as other recent initiatives in Minnesota, including:

1) **Minnesota's Olmstead Plan,** which promotes:
    - Employment First
    - Planning protocols for the person to make informed decisions about supports for community living
    - Opportunities for community engagement and self-determination
2) **Positive supports rule,** which focuses on the use of positive behavior supports and prohibits use of restraints and seclusions
3) **MnCHOICES,** which is a way to learn from and plan with a person through an assessment and support-planning process
4) **Disability Waiver Rate System,** which ensures a consistent statewide disability waiver rate system and centralized provider oversight
5) **Minnesota Statutes, chapter 245D, licensure,** which ensures consistent provider standards and centralized provider oversight

Aging and adult services:

Minnesota's population will undergo dramatic shifts in the next two decades. The state demographer projects the number of Minnesotans age 65 and older will double between 2010 and 2030, from 685,000 to 1.3 million. The number of people age 85 and older (who tend to need long-term care) will nearly double, growing to 163,000 and then double again by 2050, rising to 324,000 people. By 2020, there will be more people age 65 or older than school-aged children in Minnesota. (source: Minnesota Board on Aging State Plan FFY 2015 – 2017 [PDF])

With the aging of the population, the need for home and community-based services will increase. We have put in place many creative strategies to address this demand. The state focuses on educating and empowering older adults and their families to make informed decisions about and easily access home and community-based services. The state works to ensure access to a wide range of supports to help people remain in their homes and communities for as long as possible. The state is committed to supporting HCBS providers so they can comply with the HCBS settings rule and continue to provide high-quality services to people, no matter how services are paid for.

III. Minnesota's statewide transition plan

The federal government is allowing states until March 17, [Begin Delete]~~2019~~ [End Delete] [Begin Add] 2022 [End Add], to comply fully with the new settings requirements. A statewide transition plan is a document that outlines how Minnesota will ensure compliance with the HCBS Settings [Begin Add] The statewide transition plan outlines how we will ensure that each setting complies with HCBS rule requirements. CMS requires the transition plan to include three main components:

- Systemic assessment and remediation
- Site-specific assessment, validation and remediation
- Stakeholder input

The HCBS rule originally allowed a five-year transition plan for existing programs to comply with its home and community-based setting requirements. On May 9, 2017, CMS announced that states have until March 2022 to bring their systems into compliance with the HCBS settings requirements, extending the deadline by three years. To read more, see Extension of Transition Period for Compliance with Home and Community-Based Settings Criteria (PDF).

Initial approval

[Begin add] MN DHS submitted an initial statewide transition plan on Jan. 8, 2015. We rewrote and resubmitted the statewide transition plan on Dec. 2, 2016 to incorporate new guidance issued by CMS and to address gaps identified in the initial plan by CMS. On June 2, 2017, CMS gave its initial approval to Minnesota's statewide transition plan to bring settings into compliance with the federal HCBS regulations. To read more, see the June 2 letter from CMS to DHS (PDF).

Initial approval means that CMS approves of Minnesota's systemic assessment and the plan to update regulations as needed. On July 9, 2018, CMS sent an Initial Approval Addendum Letter (PDF) to MN DHS explaining what we need to change to receive final approval.

[Begin Delete] ~~Minnesota submitted an initial, statewide transition plan on Jan. 8, 2015, to address the new rule governing home and community-based services funded through Medical Assistance. CMS issued the new rule in January 2014. CMS requires each state to create a transition plan detailing how the state will comply with the requirements for home and community-based settings by March 17, 2019. This document offers the framework Minnesota will use to ensure compliance.~~

~~Amended statewide transition plan~~

~~This amended statewide transition plan builds upon the transition plan submitted on Jan. 8, 2015.~~

~~Amendments include:~~

- ~~An updated approach to the transition plan and milestones to accomplish requirements~~
- ~~A progress report on milestones, including findings from the state's systemic assessment~~
- ~~Additional information in response to correspondence from CMS on Oct. 8, 2015 (PDF), and April 26, 2016 (PDF), and subsequent conference calls.~~

- ~~An effort to reformat and simplify information so the public may better understand the purpose and intent.~~

~~Accomplishments and lessons learned~~

~~Provider self-assessment survey: In April 2015, the Department of Human Services (DHS) launched a self-assessment survey for providers of day and residential services in settings that are owned or controlled by the provider. The goal was to use the information to determine site-specific compliance in response to CMS's guidance. The survey results:~~

- ~~Did not determine site-specific compliance because we learned that service standards and expectations required under the rule needed clearer definition. Providers also needed an opportunity to make changes to the way they operate, train staff and deliver services to comply with new expectations.~~
- ~~Provided valuable information on the training and technical assistance needed to support providers as they worked to comply with the rule.~~
- ~~Informed the development of new service standards.~~

~~**Systemic assessment:** In June 2015, DHS completed a systemic assessment to analyze the state's current level of compliance with HCBS settings criteria. The systemic assessment showed some waiver services will need regulatory and/or practice changes to comply with the rule.~~ [End Delete]

~~The statewide transition plan is a document that outlines how Minnesota will ensure compliance with the HCBS Settings Rule.~~

~~CMS requires the transition plan to include three main components:~~

- ~~Systemic and site-specific assessment~~
- ~~State action steps~~
- ~~Stakeholder input~~

~~The HCBS rule originally allowed a five-year transition plan for existing programs to come into compliance with its home and community-based setting requirements~~. [End delete]

To receive final approval, states must assess the level of compliance of each site, validate compliance and describe the plan to remediate areas of non-compliance.

[Begin add] Minnesota will use the following strategies to ensure compliance with the HCBS settings rule (which are explained later in this document):

1. Provider attestation requirement for every setting

2. Desk audit of every setting's attestation and submitted documentation to support compliance

3. Identify Prong 1, 2 and 3 – Presumed not to be HCBS settings

4. Assess and validate Prong 1, 2 and 3 – Presumed not to be HCBS settings: On-site visits and outreach

5. Implement person's experience assessments

6. Develop and implement residential tiered standards for BI, CAC, CADI and DD waivers

7: Develop and implement non-residential tiered standards for BI, CAC, CADI and DD waivers

8. Implement methods for ongoing HCBS compliance

9. Assess people's ongoing experience

10. Assess lead agencies

11. Assess service gaps

Transition protocol for people receiving services

If any setting remains noncompliant after all validation and remediation strategies are exhausted, people who receive services in those settings will move to a compliant setting according to the requirements in the Person-Centered, Informed Choice and Transition Protocol (PDF). The Person-Centered, Informed Choice and Transition Protocol is a guide lead agencies (counties, tribal nations and managed-care organizations) must use to implement person-centered practices during transitions. The protocol explains our expectations for lead agencies and other long-term supports and services support planners, including specific expectations when a person is moving from one service to another. Support planners are the primary people responsible for providing support to people during transitions. The protocol outlines transition requirements on pages 19-21, which will be the protocol for moving people from services/settings that do not comply with the HCBS settings requirements.

We will begin to send notices to people who receive waiver HCBS in March 2020, as we identify settings, to notify them of the settings' inability to meet compliance by March 2022. The notice will include contact information for their lead agencies, LTC Ombudsman Office, Senior Linkage Line, Disability Hub, HCBS transition website and our office.

When people make transitions, lead agencies will provide an informed choice about setting and service options. We will do this by:

- Using person-centered planning to ensure that the person's preferences and needs are the focal point of the service plan
- Ensuring that the person or the person's representative directs services and supports
- Providing meaningful information about and exposure to integrated options

Through the attestation process, we required providers to demonstrate that their setting practices aligned with the settings rule. Through this process, we had 34 provider settings choose to opt out of delivering HCBS waiver services. In our communication with these providers, we learned each provider

had multiple reasons for opting out, including previous decisions to close settings, an acquisition by another provider or selling of the business, and providers who no longer serve people who receive Medicaid-funded HCBS. If a setting presumed not to be an HCBS does not comply with the requirements of the new rule, the setting will no longer be eligible for waiver services funding. We will require people who receive HCBS waiver services in that setting to move to compliant settings. [End add]

IV. Public engagement

Targeted communication to people and families

Engaging people who receive services and their families is critical as MN DHS implements the HCBS settings rule. We conducted the following outreach:

- **2014:** Seven in-person listening sessions across the state. We designed the sessions to inform people of the HCBS rule, to get initial input about how the rule would affect their lives and to inform the transition plan. The target audience for the listening sessions included seniors, people with disabilities and their families.
- **2015-2016:** 21 in-person community meetings across the state. We designed the sessions to inform people of the HCBS rule, to get feedback on how specific elements of the rule would affect their lives and to provide feedback on new standards recommended by the HCBS advisory group. The target audience for the community meetings included people with disabilities and their families.
- [Begin Add] **2017:**
  - We designed and sent a series of communications to explain to people who receive services what is changing, why it is changing and what those changes might mean for them. Each communication included fact sheets including "My best life, my way: The HCBS rule (PDF)" and "What does person-centered mean for me?" (PDF) for the person to learn more about the rule. The fact sheets included ways people can learn more including:
    - View the Home and Community-Based Services Rule Overview video for more information
    - Contact the Disability Linkage Line at 1-866-333-2466
    - Go to mn.gov/dhs/hcbs
  - We designed and sent a mailing about services, supports and funding that can help people achieve their housing goals:
    - A July 13, 2017, memo (PDF) listing available housing resources
    - A flyer, My home. Creating the best home for me. (PDF)
- **2018:**
  - We designed communication about new employment services and sent to people who receive services in May and June.
    - Several memos about new employment service options: memo from DHS Disability Services Director Alexandra Bartolic about new employment options (PDF)
    - Disability Hub MN informational flyer about employment: Employment matters: More money. More freedom More options (PDF).
    - E-list announcement: Communication about employment options to people who use disability waivers

- We designed communication about the new strategies and tools developed by the department to gather participant experience feedback about adult day, foster care and customized living services for people who are on Elderly Waiver (EW) and enrolled in managed care.
  - June 21 video conference: EW Participants in Managed Care Evaluate Certain Services at Reassessment
  - July 2 E-list announcement: Bulletin 18-25-04 Elderly Waiver Participants in Managed Care Provide Feedback About Certain HCBS Services [End Add]
- We will use the following strategies to provide targeted outreach to people who receive services and their families throughout the remainder of the transition period:
  - Meetings with self-advocates
  - [Begin Add] Disability Hub virtual insight panel [End Add]
  - Direct mailing/fact sheets
  - On-demand videos

[Begin Delete] ~~Table 1: 2015-2016 Community meeting dates and locations~~

~~Date~~	~~City~~	~~Number of people in attendance~~
~~April 6, 2016~~	~~Albert Lea~~	~~21~~
~~April 14, 2016~~	~~Rochester~~	~~15~~
~~April 21, 2016~~	~~Willmar~~	~~36~~
~~June 28, 2016~~	~~Austin~~	~~24~~
~~July 15, 2016- two meetings~~	~~Brooklyn Park~~	~~30~~
~~July 19, 2016- two meetings~~	~~Minneapolis~~	~~20~~

~~Date~~	~~City~~	~~Number of people in attendance~~
~~July 25, 2016- two meetings~~	~~Brainerd~~	~~15~~
~~July 28, 2016- two meetings~~	~~Roseville~~	~~43~~
~~Aug. 1, 2016~~	~~Edina~~	~~70+~~
~~Aug. 8, 2016- two meetings~~	~~Bemidji~~	~~14~~
~~Aug. 12, 2016~~	~~Duluth~~	~~7~~
~~Aug. 15, 2016- two meetings~~	~~Moorhead~~	~~7~~
~~Aug. 17, 2016- two meetings~~	~~Rochester~~	~~9~~
~~Aug. 22, 2016~~	~~Mankato~~	~~10~~ [End Delete]

HCBS advisory group

A significant component of MN DHS's public engagement efforts includes collaboration with the HCBS rule advisory group.

[Begin Delete] ~~The HCBS advisory group, which first met in May 2014, is composed of members from the DHS partners panel. The partners panel, established in 2008, supports the continuous improvement of Minnesota's HCBS system. The partners panel is a group of diverse stakeholders with expertise in long-term services and supports who represent aging, disability and mental health.~~ [End Delete]-The members include county government, service providers, managed-care organizations and advocates. State agency staff also participate.

See Appendix A: Organizations represented in HCBS advisory group. The advisory group's activities included the following:

- 2014: Provided recommendations on the public-input process used in the development of Minnesota's HCBS settings rule statewide transition plan.
- 2015-2016: Developed recommendations to MN DHS on policy expectations and practice considerations. The group reviewed HCBS rule standards and discussed expectations, responsibilities of case managers, care coordinators and providers and the licensing authority responsible to the standard. The standards developed by the advisory group [Begin Delete] ~~will inform~~ [end delete] [Begin add] informed [End add] system changes and how settings {begin add] were [end add] [Begin Delete] ~~will be~~ [End Delete] assessed via the provider attestation. [Begin Delete] ~~We will engage the advisory group regularly throughout the remainder of the transition period to provide input as we make the transition plan part of our operations.~~ [End Delete]
- [Begin Add] 2017-2018: Helped us to test the provider-attestation process, provided input on the provider-attestation form, provided technical assistance throughout the attestation process, provided input on the desk audit and site visit processes and protocols and provided technical assistance to providers during the desk audit followup and site visits.

We will engage the advisory group regularly throughout the remainder of the transition period to provide input as we make the transition plan part of our operations. [End Add]

Communication [begin add] campaign [end add] [begin delete] ~~strategies~~ [end delete]

[Begin add] MN DHS also launched a communication campaign to provide information and operational guidance to people, providers and lead agencies.

2014-2015: We hosted a series of videoconferences and webinars, sent electronic updates, held focus groups and presented at conferences.

2016-2017: We developed tools/resources and provided targeted outreach and technical assistance that has helped nearly 6,000 HCBS settings complete a provider attestation to comply with the HCBS rule requirement of site-specific assessments

2018: We developed a Guide to Putting the HCBS Settings Rule into Practice (PDF) and notified providers (and other stakeholders) via direct email and electronic distribution lists. We used email contacts through the attestation process to communicate directly with providers about desk audit followup and site visits. [End Add]

MN DHS uses the HCBS transition plan webpage and the HCBS settings email box as a central location for sharing information, tools and resources related to the HCBS settings rule. There, all stakeholders can access the same current information, such as:

- Status updates:
  - results of completed activities

    - upcoming activities
    - statewide transition plan [Begin Add] status and public comment [End Add]
- Video trainings
- Resources and tools
- Frequently asked questions
- [Begin Add] Communication and outreach activities [End Add]

[Begin Delete] ~~During 2014-2016, we conducted the following outreach efforts:~~

- ~~Videoconferences and webinars~~
    - ~~DHS hosted a series of videoconferences and webinars including:~~
        - ~~HCBS Lead Agency Input Sought on Minnesota's Development of a Compliance and Transition Plan to Comply with New CMS Rule (PDF)~~
        - ~~Medicaid Home and Community-Based Services Final Rule (PDF)~~
        - ~~Questions for Lead Agencies (PDF)~~
        - ~~HCBS Adult Foster Care and Community Residential Support Provider Input Sought on Minnesota's Development of a Compliance and Transition Plan to Comply with New CMS Rules (PDF)~~
        - ~~HCBS Employment and Day Supports (DT&H, Prevocational Services, Structured Day Program and Adult Day Services) Input Sought on~~
            - ~~Minnesota's Development of a Compliance and Transition Plan to Comply with New CMS Rules (PDF)~~
        - ~~Customized Living Service Input Sought on Minnesota's Development of a Compliance and Transition Plan to Comply with New CMS Rules (PDF)~~
        - ~~HCBS Self-Assessment and Plan Webinar Series (6 sessions)~~
- ~~Electronic updates~~
    - ~~March 16, 2015, HCBS Rule Transition plan~~
    - ~~May 21, 2015, Deadline for HCBS provider self-assessments is May 29, 2015~~
    - ~~June 26, 2015, DHS seeks public feedback on changes to waiver employment services for people with disabilities~~
    - ~~Nov. 12, 2015, Update on Minnesota's HCBS rule statewide transition plan~~
    - ~~March 29, 2016, Status of Minnesota HCBS statewide transition plan~~
    - ~~Aug. 4, 2016, New person-centered practices content available on the DHS website~~
- ~~Provider focus groups~~
    - ~~Association of Residential Resources in Minnesota~~
    - ~~Coalition for Choice and Housing~~
    - ~~Leading Age Minnesota~~
    - ~~Lutheran Social Services~~
    - ~~Minnesota Organization for Habilitation and Rehabilitation~~
- ~~Speaking engagements~~
    - ~~Care Providers of Minnesota~~
    - ~~Minnesota Adult Day Services Association~~

- ~~Minnesota Age and Disability Odyssey Conference~~
- ~~Minnesota Association for County Social Service Administrators~~
- ~~HCBS Partners Panel (counties, service providers and advocates)~~
- ~~County-state work group~~
- ~~State Quality Council~~
- ~~Advocacy organizations, including the Minnesota Self Advocacy Network~~
- ~~Meetings and conferences, as invited~~

~~DHS has and will continue to use a number of strategies to provide information and seek input from stakeholders throughout the transition period. These stakeholders include people who receive services and their family members, providers, lead agencies (counties, health plans and American Indian tribes), advocacy organizations and other interested parties. We will use the following communication strategies:~~

- ~~Community meetings~~
- ~~Direct mailing~~
- ~~Electronic mailing lists~~
- ~~HCBS advisory group~~
- ~~On-demand videos~~
- ~~Provider focus groups~~
- ~~Speaking engagements~~
- ~~Videoconferences and webinars~~

~~Outreach through advocacy organizations, the Area Agencies on Aging and others.~~ [End Delete]

V. Systemic assessment and remediation

Step 1: Initial settings analysis

Minnesota examined the settings associated with the services available in each of the state's HCBS programs to guide the state's approach to further assessment activities.

- **Residential settings** under the Brain Injury (BI), Community Alternative Care (CAC), Community Access for Disability Inclusion (CADI) and

Developmental Disabilities (DD) waivers in which people are receiving HCBS. Those settings included individual/family homes, shared living and congregate settings in which two or more people share services.

- **Day service settings** under the Brain Injury (BI), Community Alternative Care (CAC), Community Access for Disability Inclusion (CADI) and Developmental Disabilities (DD) waivers in which people are receiving HCBS. Those settings included group day service settings and individual and group supported employment settings.
- **Residential settings** under the Elderly Waiver (EW) in which people are receiving HCBS. Those settings included individual/family homes, shared living and congregate settings in which two or more people share services.
- **Day service setting** under the Elderly Waiver (EW) and the Alternative Care (AC) 1115 Demonstration Project in which people are receiving HCBS. Those settings included adult day service and family adult day settings.

You may find a list of services by waiver and a description of services in the provider manual for Elderly Waiver/AC program and the community based program manual for BI, CAC, CADI and DD waivers

Table 2: HCBS rule service analysis

Status	Description of status
No modifications needed	Settings where these services are provided fully comply with the regulation because the services, by their nature, are individualized, provided in the community, [begin delete] ~~or~~ [end delete] the member's private home [begin add] or non-disability-specific setting [end add] and allow full access to the broader community according to a person's needs and preferences. People choose which services and supports they receive and who provides them. Providers of these services will not undergo the site-specific assessment process.
Modifications needed	[begin delete] ~~Certain~~ [end delete] Settings where these services are provided may require changes to comply fully with the regulation. [begin add] These services are typically provided to groups of people receiving Medicaid HCBS. [end add] Providers of these services will undergo the assessment process and, when necessary, the remediation or heightened scrutiny processes.
Not applicable	The service is not offered through that program.

Table 3: Compliance status by service and program

Waiver service	**AC**	**EW**	**BI**	**CAC**	**CADI**	**DD**
24-hour emergency assistance	Not applicable	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed

Waiver service	AC	EW	BI	CAC	CADI	DD
Adult companion services	No modifications needed	No modifications needed	No modifications needed	Not applicable	No modifications needed	Not applicable
Adult day services	Modifications needed	Modifications needed	Modifications needed	Modifications needed	Modifications needed	Modifications needed
Adult day services bath	No modifications needed	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Adult foster care (corporate)	Not applicable	Modifications needed	Modifications needed	Modifications needed	Modifications needed	Not applicable
Adult foster care (family)	Not applicable	Modifications needed	Modifications needed	Modifications needed	Modifications needed	Not applicable
Assistive technology	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	No modifications needed
Behavioral support	Not applicable	Not applicable	No modifications needed	No modifications needed	No modifications needed	Not applicable
Case management	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Chore	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Child foster care	Not applicable	Not applicable	Modifications needed	Modifications needed	Modifications needed	Not applicable

Waiver service	AC	EW	BI	CAC	CADI	DD
Consumer-directed community support	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Crisis respite	Not applicable	Not applicable	No modifications needed	Not applicable	No modifications needed	No modifications needed
Customized living services/24 hour	Not applicable	Modifications needed	Modifications needed	Not applicable	Modifications needed	Modifications needed
Day training and habilitation	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Modifications needed
Environmental adaptations	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Home health aide (HHA)	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Extended nursing services (LPN & RN)	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Extended therapies (OT, PT, Speech and RT)	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Extended personal care assistance	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed

Waiver service	AC	EW	BI	CAC	CADI	DD
Extended home care nursing	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Family adult day services (FADS)	No modifications needed	No modifications needed	Modifications needed	Modifications needed	Modifications needed	Modifications needed
Family caregiver coaching and counseling (including assessment)	No modifications needed	No modifications needed	Not applicable	Not applicable	Not applicable	Not applicable
Family caregiver training and education	No modifications needed	No modifications needed	Not applicable	Not applicable	Not applicable	Not applicable
Family training and counseling	Not applicable	Not applicable	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Home-delivered meals	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Homemaker	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Housing access coordination	Not applicable	Not applicable	No modifications needed	No modifications needed	No modifications needed	No modifications needed

Waiver service	AC	EW	BI	CAC	CADI	DD
ILS therapies	Not applicable	Not applicable	No modifications needed	Not applicable	Not applicable	Not applicable
Independent living skills (ILS) training	Not applicable	Not applicable	No modifications needed	No modifications needed	No modifications needed	Not applicable
Night supervision services	Not applicable	Not applicable	No modifications needed	Not applicable	Not applicable	Not applicable
Non-medical transportation	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Nutrition	No modifications needed	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Personal support	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	No modifications needed
Prevocational services	Not applicable	Not applicable	Modifications needed	Not applicable	Modifications needed	Modifications needed
Residential care services Note: This service was discontinued June 30, 2018, with approval from CMS via waiver amendment.	Not applicable	Modifications needed	Modifications needed	Not applicable	Modifications needed	Not applicable

Waiver service	AC	EW	BI	CAC	CADI	DD
Residential habilitation – in-home family support services (child and adult)	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	No modifications needed
Residential habilitation – supported living service (child and adult)	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Modifications needed
Respite (in-home and out- of-home)	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Specialist services	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	No modifications needed
Specialized equipment and supplies	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed
Structured day program	Not applicable	Not applicable	Modifications needed	Not applicable	Not applicable	Not applicable
Supported employment services Note: Group supported employment is	Not applicable	Not applicable	No modifications needed	No modifications needed	No modifications needed	No modifications needed

Waiver service	AC	EW	BI	CAC	CADI	DD
provided under Day Training and Habilitation.						
Transitional services	Not applicable	No modifications needed	No modifications needed	No modifications needed	No modifications needed	No modifications needed

Step 2: Further assessment activities

Process

The state conducted a systemic assessment of the [Begin add] service settings listed in Table 4.[End add] [Begin delete] ~~following state standards for settings that group or cluster people together for purposes of receiving HCBS (see Table 4).~~ [End delete] [Begin add]A detailed assessment, including remediation strategies and key milestones can be found in the BI, CAC, CADI and DD Waiver Systemic Assessment Crosswalk (PDF) and the Aging and Adult Services Waivers Systemic Assessment Crosswalk (PDF). [End add]

[Begin delete]

- ~~State statutes, administrative rules~~
- ~~Service specifications and provider standards for all five 1915(c) waivers including the Brain Injury (BI) Waiver, Community Alternative Care (CAC) Waiver, Community Access for Disability Inclusion (CADI) Waiver, Developmental Disabilities (DD) Waiver, Elderly Waiver (EW) and the 1115 Demonstration Alternative Care (AC) program~~
- ~~Case management standards~~
- ~~Administrative and operational processes~~
- ~~Monitoring and operational oversight activities~~ [End delete]

Table 4: Services provided in provider-controlled settings that group people together

Waiver service	Setting type	Waiver (1915c/1115)
Adult foster care	Adult foster care Community residential setting	BI, CAC, CADI, and EW
Child foster care	Child foster care	BI, CAC, and CADI
Customized living	Housing with services establishment Note: Minnesota requires providers to deliver customized living services in a registered housing with services establishment by an arranged home care. In this model, the services and the housing are governed by separate statutes, and tenants/service recipients have protections under both sets of statutes. This relationship between the housing establishment and the service provider means that customized living is delivered in a provider-owned or -controlled residential setting.	BI, CADI, EW
Adult day care	Adult day care facility or family adult day care	AC, BI, CADI, CAC, DD, and EW
Day training and habilitation	Day service facility	DD
Prevocational services	Day service facility	BI, CADI, and DD
Structured day program	Day service facility	BI

Waiver service	Setting type	Waiver (1915c/1115)
Supported living-adults	Community residential setting	DD
Supported living-child	Child foster care	BI, CAC, CADI, and EW

[Begin delete] ~~The Department of Human Services, the Department of Health and people who are knowledgeable about vulnerable adult and housing laws validated the state's assessment.~~

~~Summary of systemic assessment~~

~~**1) Revisions to state statute/rules**~~

- ~~**Minnesota Rules, chapter 9555, and Minnesota Statutes, chapter 245A, governing adult foster care for EW,** need to be strengthened to assure that there is a legally enforceable agreement that addresses eviction protections and that people have the right to:~~
  - ~~Privacy in their bedrooms, including a lockable door~~
  - ~~Choice of roommate~~
  - ~~Furnish and decorate their bedrooms or living units~~
  - ~~Access to their personal possessions~~
  - ~~Have visitors at any time~~
  - ~~Have access to food at any time~~
  - ~~Come and go at will.~~

~~We will place these revisions in chapter 245A, which governs the licensing standards of adult foster care for the EW programs.~~

- ~~**Minnesota Statutes, chapters 144D, governing customized living services,** needs to be strengthened to ensure that people are supported to fully access and engage in the community and that people have the right to:~~
  - ~~Privacy including a lockable unit door~~
  - ~~Furnish and decorate their living spaces~~
  - ~~Have visitors~~
  - ~~Food at any time~~
  - ~~Choose a roommate.~~
- ~~**Minnesota Statutes, chapter 245D, governing foster care, supported living services, day training and habilitation services, prevocational services and structured day services,** needs to be strengthened to assure that people are supported to fully access and engage in the community, and, for residential services, have the right to:~~

- Furnish and decorate their living spaces
- Have visitors of their choosing
- A legally enforceable agreement that addresses eviction protections
- Privacy in their bedrooms, including a lockable door.

- **Minnesota Statutes, sections 256B.49, 256B.0911 and 256B.092,** governing the areas of assessment/reassessment and support planning need to be strengthened to assure that people's informed choice of settings includes:
  - Non-disability specific residential and non-residential settings
  - Assessment of needs related to a person's engagement in community life; and
  - Assignment and documentation of services to meet these needs.

2) Amendments to 1915(c) waivers

- Service definitions, provider specifications and provider qualifications
  - Strengthen current service definitions to support people with fully accessing their communities
  - Add services to other waivers or develop new service options to support people as they:
    - Gain full access to the community
    - Live in their own homes
    - Find and maintain paid employment in community businesses.

3) Training and technical assistance

- DHS must develop and implement provider training, tools and resources as needed to help providers more fully meet the intent of HCBS standards and expectations
- DHS must develop protocols for lead agency partners (counties, tribes, health plans and contracted providers) to implement person-centered principles and practices.[End delete]

Step 3: Systemic remediation

Our approach to remediating our [Begin add] current [End add] HCBS [Begin add] system [End add] [Begin delete] foundation [End delete] consists of aligning regulations to the rule, new service development, service modification and [Begin add] technical assistance [End add] [Begin delete] training[End delete]. In order to assess and identify areas of alignment and differences in the services delivered by the disability and aging waivers, we assessed the services separately by waiver, but collaboratively. This process allows us to align outcomes and remediation strategies, regardless of a person's age, when appropriate and to identify different outcomes and remediation strategies because of differences in the needs of the populations served.

Detailed remediation strategies and key milestones can be found in the BI, CAC, CADI and DD Waiver Systemic Assessment Crosswalk and the Aging and Adult Services Waivers Systemic Assessment Crosswalk.

2017-2018 remediation activities:

1) Revise[Begin add]d [End add] state-licensing standards

[Begin add] The changes made during the 2017 legislative session align Minnesota's regulatory requirements and provider standards with the HCBS rule. The changes address the gaps identified through the systemic assessment. These changes reflect the requirements to ensure provider settings meet the basic requirements of the HCBS rule. Amendments to law include:

- Housing with services contract requirements related to resident rights in 144D
- Adult foster care licensing requirements for people on Elderly Waiver in 245A and 256.045
- Home and community-based services licensing requirements in 245D
- Long-term care consultation service requirements in 256B.0911 (includes the requirement for case-management activities to include helping the person to identify potential providers, including services provided in non-disability-specific settings)

A summary of statutory changes made to programs licensed by MN DHS during the 2017 legislative session are posted to Licensing's legislative changes in 2017 webpage. On Aug. 4, 2017, the Minnesota Department of Health issued Information Bulletin 17-03: Housing with Service (HWS) Resident Rights, Contracts and Lodging License to inform customized living service providers of the changes to Minnesota Statutes 144D.

For a detailed list of statutory changes related to the HCBS rule, review Appendix B: New laws effective 2017 of the Transition Plan Implementation for Home and Community-Based Settings Report, January 2018 (PDF).

2) Developed new services

Minnesota has created or modified several services to create more options to ensure people have access to services in non-disability-specific settings among their service options for both residential and non-residential services.

- **Individual community living support (EW and AC):** Individual community living support (ICLS) is a bundled service that offers verbal, visual and/or tactile guidance, assistance and support to EW and AC participants who need cuing, or intermittent or moderate physical assistance to remain in their own homes and in their communities. ICLS will be delivered in a single-family home or apartment owned or rented by the recipient as demonstrated by a lease agreement. The service may also be delivered in an apartment or home that is leased or owned by a friend or family member who has no financial interest in the service.
- **Individualized home support (BI, CAC, CADI, DD):** Individualized home supports are designed to support a person in his or her own home and within his or her community holistically by providing support (e.g. supervision, cuing) and training in four broad community living service areas. With multiple service-delivery methods, individualized home support increases a person's choices and options for how and where services are delivered to meet his or her CL service needs. To support community access, an individualized home supports service provider cannot have any financial interest in the property or housing in which services are delivered.

- **Personal support (expanded to BI, CAC and CADI waivers):** Personal support services are nonmedical care, supervision and assistance provided to a person in his or her home or in the community to achieve increased independence, productivity and inclusion in the community. Personal support services may provide supervision and assistance to a participant in accessing community services and participating in community activities.
- **In-home family support (expanded to BI, CAC and CADI waivers):** In-home family support services are residential habilitation services provided to people and their families, including extended family members, to enable the person to remain in or return to his or her home. Habilitation services increase and maintain physical, intellectual, emotional and social functioning and assist people in acquiring, retaining and improving the skills needed to live successfully in the community.
- **Employment exploration (BI, CAC, CADI, DD waivers):** Employment exploration services (EES) is an orientation and experience-based service that introduces a person to the world of work. We intend it to occur predominantly in the community. EES is designed to help people to learn more about and make an informed choice about competitive employment. This service is for those who are undecided about working competitively; it is not a prerequisite for employment development services (EDS). People who already know they want to work should go directly into EDS.
- **Employment development (BI, CAC, CADI, DD waivers):** Employment development services (EDS) is an individualized service that helps a person to achieve competitive employment in the community based on his or her strengths and interests. Services are 1:1 and culminate with the person obtaining competitive employment with a community business, becoming self-employed or establishing a microenterprise business in his or her community.
- **Employment support (BI, CAC, CADI, DD waivers):** Employment support services (ESS) is a community-immersed, individualized assistance and support service that helps people maintain their competitive employment in a community business, their self-employment or their microenterprise business. ESS will also include training and support for time-limited, community-based group employment.

3) Designed and implemented a person's experience assessment

The person's experience assessment is administered at the person's mid-year review of the support plan or annual reassessment. MN DHS developed the person's experience assessment as part of the long-term care consultation reassessment and as a component of the new electronic support plan launched in June 2017. The person's experience assessment tool will be administered at the person's mid-year review of the support plan or annual reassessment. The person's experience assessment tool was implemented in September 2017 and is an ongoing monitoring activity.

4) Provided training and technical assistance

Developed provider tools and resources:

- Trained on provider tools and resources
- Improved licensing policy templates and forms
- Developed provider expectation guidance - Guide to Putting the HCBS Settings Rule into Practice (PDF)
- Developed a Residency agreement template
- HCBS Rights Modification Support Plan Attachment template (PDF) and video tutorial [End add]

- Developed HCBS standards frequently asked questions
- Held webinars and open office hours:
    - Aging and Related Topics Training
    - Community Based Services Manual
- Developed on-demand video training
- Modified the College of Direct Support (56 online lessons to train direct support workers)

[Begin add]2019-2020 planned remediation activities: [End add]

[Begin delete]~~DHS will propose changes to statute and federal waiver plans to align regulatory requirements, service descriptions and provider standards with the federal rule. The proposed changes would also address gaps identified through the regulatory review process. We will propose the changes to statute in phases over the 2017 and 2018 legislative sessions. We will propose the bulk of the legislative changes during the 2017 legislative session. The 2018 legislative session will be used, if necessary, to address any final refinements. Phasing the proposals over two legislative sessions allows us the opportunity to work with stakeholders, especially for issues that are more complicated.~~[End delete]

Minnesota has chosen to set higher standards for what constitutes an acceptable HCBS setting for designated new service settings. [Begin delete]~~You may find more details under Tiered standards for providers funded by BI, CAC, CADI or DD waivers in the transition plan. Intro to "tiered standards" add~~ [End delete] Tiered standards will [Begin add]create more options to ensure people have access to services in non-disability specific settings among their service options for both residential and non-residential services.

1. Implement tiered standards for day and employment services: For additional details see Tiered Standards for BI, CAC, CADI and DD Waivers
2. Implement tiered standards for customized living services and own home definition/services: For additional details see Tiered Standards for BI, CAC, CADI and DD Waivers [End add]

Rate analysis

[Begin add]In addition to changes to service standards, we [End add] [Begin delete]~~We~~[End delete] will analyze existing rates for services and establish rate frameworks for new services funded through the BI, CAC, CADI and DD waivers:

- Through full implementation (2019 or 2020, depending on CMS approval of an extension request) of the disability waiver rate system (DWRS), protections exist for recipients, providers, lead agencies and the state. These protections include the rate-stabilization adjustment period, known as banding, as well as the rates exceptions request process for people with needs that might not be met by the rate frameworks. The statute that authorized DWRS requires automatic rate adjustments based on staff wages. The first of these adjustments [Begin delete] ~~will occur~~[End delete] [Begin add] occured[End add] in July 2017.
- During the remaining years of banding protection, MN DHS will focus on careful analysis to ensure that components within the DWRS accurately reflect the cost of providing services, recipients continue to have access to the high-quality services they need and we implement DWRS fairly and consistently throughout the state.

- [Begin delete] ~~DHS has submitted a 2017 legislative proposal for consideration in the governor's budget for more money to start new employment services. We have considered staffing ratios needed to meet an increased level of service in this legislative proposal.~~[End delete]

Alignment with other relevant state activities

1) Comprehensive assessment

Minnesota's long-term care consultation (LTCC) service helps people to make decisions about long-term care needs and to choose services and supports that reflect their needs and preferences. Lead agencies are responsible for conducting LTCC assessments.

The LTCC program is designed to:

- Make people aware of available home and community-based options, [Begin add] including non-disability-specific settings [End add]
- Prevent long-term placement of people in nursing facilities, hospital swing beds and certified boarding care facilities
- Provide options to people so they can make informed decisions about where they want to live. The LTCC assessment process identifies:
  - Level of care
  - Need for supports and services
  - Natural and informal caregiver supports
  - A person's preferences and goals
  - Strengths and functional skills
  - Service options and alternatives in support of informed choice,[Begin add] including non-disability-specific settings [End add]
  - Financial resources including all third-party payers.

MnCHOICES is a comprehensive process for assessment and support planning for long-term services and supports. It is a web-based application launched on Nov. 4, 2013. We are transitioning by region and target groups across the state with the goal of statewide use. MnCHOICES uses a person-centered planning approach to help people make decisions about long-term services and supports. It is one assessment process for people of all ages, abilities and financial status that:

- Promotes choice
- Promotes integrated community living
- Provides a common data-collection tool
- Includes person-centered planning principles
- Focuses on people and not programs
- Determines service eligibility.

2) Implement Minnesota's Olmstead Plan person-centered planning protocol

MN DHS has created a [Begin add] person-centered planning protocol (PDF) [end add] to provide guidance for support planners regarding best practices and expectations for person-centered planning. We will revise it over time based on feedback from support planners and best practices in the field of person-centered practices.

Person-centered practices are based on five key areas. Services for and interactions with people should be judged by their ability to help people:

- Share ordinary places and activities
- Make choices
- Contribute
- Be treated with respect and have a valued social role
- Grow in relationships

We also wrote a series of bulletins and held several learning community sessions specific to the person-centered planning, informed choice and transition protocols. [Begin add] These bulletins and learning community sessions can be found on the Person-Centered Practices website. [End add]

- [Begin delete]~~Bulletin Series on Person-Centered Planning~~
  - ~~Lead Agency Requirements for Person-Centered Principles and Practices- Part 1~~
  - ~~Lead Agency Requirements for Person-Centered Principles and Practices- Part 2~~
  - ~~Lead Agency Requirements for Person-Centered Principles and Practices Part 3~~

- ~~Support Planning Professionals Learning Community~~
  - ~~February 24, 2016 - Person-centered practices five common elements part 2 of 5~~
  - ~~March 30, 2016 - Person-centered practices five common elements part 3 of 5~~
  - ~~April 27, 2016 - Person-centered practices five common elements part 4 of 5~~
  - ~~May 25, 2016 - Person-centered practices five common elements part 5 of 5~~
  - ~~June 29, 2016- Person-centered planning implementation/ oversight and employment first implementation~~[End delete]

3) Implement Minnesota Employment First policy

Minnesota's Employment First policy promotes the opportunity for people with disabilities to make informed choices about employment. This policy views competitive, integrated employment as the first and preferred option for people with disabilities.

4) Monitoring service access

MN DHS is committed to developing and maintain[Begin add]ing[End add] high-quality, accessible HCBS for older adults and people with disabilities. Minnesota faces significant demographic changes as the population ages. The need for HCBS will grow. We will ensure that older adults and people with disabilities are given choice and opportunities for community living. We are committed to supporting HCBS providers so they may comply with the HCBS settings rule and continue to provide high-quality services.

MN DHS monitors and addresses service-access issues in a variety of ways. Since 2001, we have gathered information and analyzed service

access. We are changing how we measure access and availability of HCBS for older adults and people with disabilities. Through these projects, we seek to collect, analyze and track objective data about access. MN DHS will also analyze the impact of key individual, service, provider, geographic and other factors on outcomes.

[Begin add] VI. Site-specific assessment, validation, remediation and on-going HCBS compliance monitoring strategies [End add]

[Begin delete]~~Site-specific assessment and remediation~~

~~Initial assessment of setting compliance, validation and remediation plan~~[End delete]

[Begin add]Site-specific assessment, validation, remediation and on—going HCBS compliance monitoring strategies[End add]

[Begin delete] ~~Minnesota will have an assessment and multi-layered validation strategy to ensure compliance with rule requirements.~~[End delete]

[Begin add]Minnesota is using a multi-layered validation strategy to ensure that all identified HCBS settings in Table 4 are compliant with the HCBS final rule requirements.[End add]

[Begin delete] ~~Table 5: Site-specific assessment and remediation plan~~

~~Strategy~~	~~Initial assessment~~	~~Validation~~	~~Remediation~~
~~1. Provider attestation requirement for each setting~~	~~x~~	-	-

~~Strategy~~	~~Initial assessment~~	~~Validation~~	~~Remediation~~
~~2. Desk audit/ review provider submitted supporting documentation of compliance~~	~~-~~	~~x~~	~~-~~
~~3. On-site visits and outreach~~	~~-~~	~~x~~	~~-~~
~~4. Person's experience assessments~~	~~-~~	~~x~~	~~x~~
~~5. Provider site-specific compliance plans and outreach~~	~~-~~	~~-~~	~~x~~
~~6. Provider attestation requirement for each setting~~	~~x~~	~~-~~	~~- [end delete]~~

[Begin add] Table 5: Site-specific assessment, validation, remediation and on-going HCBS compliance monitoring strategies

Strategy	Initial assessment	Validation	Remediation	Ongoing HCBS compliance monitoring
1. Provider attestation requirement for every setting	Yes	No	No	No

Strategy	Initial assessment	Validation	Remediation	Ongoing HCBS compliance monitoring
2. Desk audit of every setting's attestation and submitted documentation to support compliance	No	Yes	No	No
3. Identify Prong 1, 2 and 3 – Presumed not to be HCBS settings	Yes	No	No	No
4. Assess and validate Prong 1, 2 and 3 – Presumed not to be HCBS settings	Yes	Yes	No	No
5. Residential tiered standards for BI, CAC, CADI and DD waivers	No	No	Yes	No
6: Non-residential tiered standards for BI, CAC, CADI and DD waivers	No	No	Yes	No
7. State licensure requirements	No	No	No	Yes
8. Provider enrollment requirements	No	No	No	Yes
9. Assessing people's ongoing experience	No	No	Yes	Yes

Strategy	Initial assessment	Validation	Remediation	Ongoing HCBS compliance monitoring
10. Assessing lead agencies	No	No	No	Yes
11. Assessing service gaps	No	No	No	Yes [End add]

Strategy 1: Initial assessment – Provider attestation requirement for every setting

The [Begin delete] ~~purpose~~ [end delete] [Begin add] purposes [End add] of the provider attestation [Begin add] are: [End add] [Begin delete] ~~is~~ [end delete]

- To identify settings that are presumed not to be HCBS [Begin add] because they are near an institution or because the setting might have the effect of isolating people who receive HCBS from the broader community (Effect of isolating).
- For providers to report compliance status [Begin add] for every HCBS setting [End add] and provide supporting evidence.

We [begin delete]~~will administer~~ [end delete] [begin add] administered [End add] the attestation electronically [Begin delete]~~but will make~~[End delete] [Begin add] and made [End add] it available in a paper copy upon request. Providers [Begin delete] ~~may submit~~ [End delete] [Begin add] submitted [End add] paper copies by fax or mail.

[Begin add] In addition to a dedicated HCBS team email box (hcbs.settings@state.mn.us), we used the following documents and resources to provide notification, guidance, instruction and templates for providers to complete an attestation for every HCBS setting:

Provider attestation form, instructions and resources:

- Home and Community-Based Services (HCBS) **Provider Attestation online form**: DHS-7176-ENG
- Video on how to use the form
- March 31, 2017, HCBS waiver provider attestation webinar announcement (PDF)
- Important links for provider attestation process
- Provider attestation frequently asked questions

HCBS service specific form templates:

- Adult Day Service
    - HCBS Provider Attestation Guidebook for Day Settings - Adult Day Services: DHS-7176C-ENG
- Elderly Waiver Adult Foster Care Service
    - HCBS Provider Attestation Guidebook for Residential Settings - Elderly Waiver Foster Care Services: DHS-7176D-ENG
    - Individual Resident Placement Agreement (IRPA) (PDF)
    - Grievance Policy Sample for License Holder (3-17)(PDF)
    - AFC Recipient Rights – Programs that serve individuals funded by Elderly Waiver (DOC)
    - AFC Service Termination Policy – Programs that serve individuals funded by Elderly Waiver (DOC)
    - AFC Program Plan – Programs that serve individuals funder by Elderly Waiver (DOC)
    - Program Abuse Prevention Plan (PAPP)(PDF)
    - HCBS Rights Modification Support Plan Attachment: DHS-7176H-ENG
- Customized Living Service
    - HCBS Provider Attestation Guidebook for Residential Settings - Customized Living: DHS-7176E-ENG
    - Minnesota Home Care Bill of Rights
    - HCBS Rights Modification Support Plan Attachment: DHS-7176H-ENG
- Day Training and Habilitation, Prevocational Services and Structured Day
    - HCBS Provider Attestation Guidebook for Day Settings - Day Training and Habilitation, Prevocational Services and Structured Day: DHS-7176F-ENG
    - Modified recipient rights form (DOCX)
    - Staff orientation or annual training record form (DOCX)
    - Modified 45-day meeting form (for new people)(DOCX)
    - Modified progress review form (for existing people)(DOCX)
    - Emergency use of manual restraint (EUMR) not allowed policy (DOCX)
    - DHS-6810-ENG Positive Support Transition Plan (PDF)
    - Funds and property authorization form (DOCX)
    - Grievance policy (DOCX)
- Adult and Child Foster Care (CAC, CADI, BI) and Supported Living Services (DD)
    - HCBS Provider Attestation Guidebook for Residential Settings - Foster Care and Supported Living Services (SLS): DHS-7176G-ENG

- DHS-7176B-ENG HCBS Residency Agreement Template for Foster Care and Supported Living Services (SLS) under the BI, CAC, CADI and DD waivers
- Modified recipient rights form (DOCX)
- Staff orientation or annual training record form (DOCX)
- Modified 45-day meeting form (for new people)(DOCX)
- Modified progress review form (for existing people)(DOCX)
- Emergency use of manual restraint (EUMR) not allowed policy (DOCX)
- DHS-6810-ENG Positive Support Transition Plan (PDF)
- Funds and property authorization form (DOCX)
- Grievance policy (DOCX) [End add]

A. All providers of day programs and residential [Begin add] services identified in Table 4 as needing modifications[End add] [Begin delete] ~~settings owned or controlled by the provider~~ [End delete] [Begin add], 5,991 individual settings,[End add] [Begin delete] ~~(approximately 5,732 settings)~~ ~~will be~~[End delete] were required to submit a provider attestation [Begin add]by Dec. 31, 2017. Based on the provider responses reported on the attestations, we initially placed settings into one of the three categories listed below.[End add] [Begin delete]~~Providers will be required to complete attestations that identify whether they comply with HCBS characteristics. Providers will be required to attest that each setting is in "compliance" with each HCBS requirement and submit supporting evidence to validate this determination or report that the setting is "not fully compliant" with each HCBS requirement and plans to come into compliance and may need technical assistance. Providers also had the overall option to "opt-out" of providing the HCBS waiver service or is opting out of providing services to waiver participants. Additional d~~ [End delete] [Begin add]Definition[End add] of these [Begin delete]~~options~~[End delete] [Begin add]categories [End add] are listed below: [Begin delete]~~Providers submit the attestation and supporting documents as evidence of compliance.~~[End delete]

1. [Begin add]**Settings that completed an attestation.** Include [End add] settings that [Begin add]self-[End add]report[Begin add]ed either full[End add] compliance with HCBS requirements [Begin add]or not yet in full compliance with one or more HCBS requirements. All settings [End add] [Begin delete]~~will~~[End delete] [Begin add]were required to[End add] submit supporting documentation as evidence of compliance. [Begin add] Examples of supporting documentation submitted [End add] [Begin delete] ~~that may~~ [End delete] include: provider policies[Begin add] and procedure [End add] manuals, [Begin add]staff[End add] training documentation, [Begin add]activity program calendars, resident handbooks, leases[End add] or other [Begin add]setting[End add] [Begin delete] ~~site~~ [End delete] [Begin add] –specific [End add] information. [Begin add] Settings [End add] [Begin delete] ~~Providers~~ [End delete] reporting they are not yet in full compliance [Begin add] with one or more HCBS requirements [End add] [Begin delete]~~will be~~[End delete] [Begin add]were[End add] [Begin delete]~~offered~~[End delete] [Begin add]provided[End add] MN DHS technical assistance, instructional guidance, [Begin delete]~~and~~ [End delete] resources and one-to-one outreach. [Begin delete] ~~and be required to submit a site-specific compliance plan.~~[End delete]
2. [Begin add]**Opt out:** Settings [End add] [Begin delete]~~Providers~~[End delete] [Begin add] that reported they were unwilling or unable to comply with the HCBS requirements were given the choice to opt out. [End add] [Begin delete] ~~Once settings are identified as opting out of providing services or are determined not able to fully comply with the settings rule by March 2019, we will conduct outreach to people affected as set forth in the transition protocol for people receiving services.~~ [end delete]. [Begin add]Once we have identified settings that have chosen to opt out of providing HCBS service or that do not fully comply with the HCBS settings rule requirements by

March 2022, we contact the people affected as set forth in the transition protocol.

3. **Did not respond**: We conducted [End add] [Begin delete]~~There will be~~[End delete] a robust and focused outreach to nonresponsive providers. If attempts to contact non-responsive providers [Begin delete]~~are~~[End delete] [Begin add]were [End add] unsuccessful, DHS [Begin delete]~~will assume~~ [End delete] [Begin add] assumes[End add] the setting is not compliant and will begin [Begin delete]~~to relocate the people served in the setting~~ [End delete] [Begin add]outreach to people affected as set forth in the Person-centered, informed choice and transition protocol (PDF).

Table 6: Number of attestations submitted by setting type and self – reporting outcomes as of July 27, 2018

Setting type	Number of settings	Settings that completed an attestation	Opt out	Did not respond
Foster care / SLS (adult and child)	4,291	4,264	23	4
Customized living	1,204	1,188	9	7
Adult day	189	181	8	0
DTH, prevocational, structured day	307	304	3	0
Total	5,991	5,937	43	11 [End add]

Strategy 2: Validation – Desk audit of every setting's attestation and submitted documentation to support compliance

[Begin add]To validate setting compliance,[End add] MN DHS [Begin delete]~~will conduct~~ [End delete] [Begin add] conducted [End add] desk audits [Begin add]for 100 percent of the 5,991 provider-submitted attestations,[End add] including review of [Begin delete]~~provider-submitted attestations and~~[End delete] [Begin add] all [End add] supporting documents [Begin add]submitted by the setting. [End add] [Begin delete]~~for a minimum of 926 submissions, a statistically significant sample, determined by setting type.~~

~~DHS will conduct additional desk audits for settings identified as presumed not HCBS. We anticipate the majority of DT&H, prevocational and structured day settings will need further state assessment, including a desk audit. These settings typically are designed specifically for people with disabilities or for people with a certain type of disability and may have the effects of isolating people from the broader community.~~

~~Table 6: Number of desk audits by setting type~~

~~Setting type~~	~~Number of desk audits~~	~~Number of settings (as of October 2016)~~
~~Foster care / SLS (Adult and Child)~~	~~352~~	~~4,111~~
~~Customized living~~	~~289~~	~~1,160~~
~~Adult day~~	~~119~~	~~171~~
~~DTH, prevocational, structured day~~	~~166~~	~~290~~
~~Total~~	~~926~~	~~5,732~~ [End delete]

A. [Begin add]**Desk audit: Resources and training requirements** [End add] [Begin delete]~~processes~~

~~The state will track settings that report compliance and have sufficient supporting documentation. If the state determines the documentation did not support setting-specific compliance, the setting will receive technical assistance and submit a site-specific compliance plan.~~[End delete]

[Begin add]MN DHS developed HCBS service-specific desk audit protocols, training curriculum and oversight to ensure that we trained each auditor to conduct attestation desk audits in a factual and consistent method. After the training, we assigned auditors to groups focused on specific services. Each auditor group met regularly with the service's subject matter expert. We initially assigned the service-specific auditor groups "training attestation" files to review. We then compared these findings to the cohort of auditors' findings and to the subject expert's findings of the same file. We repeated this method with different audit files until the cohort and individual consistency thresholds were met. Each service-specific auditor group met with the subject matter expert regularly to answer questions. The subject matter expert for each group also conducted unannounced consistency auditing of setting files to monitor ongoing consistency and validity of the audit outcomes.

We created a complex Access program database to maintain an electronic file for each of the 5,991 attestations received and the supporting documentation. This allowed us to track notifications sent to and received from each setting and the status of each setting's attestation submission, desk audit outcome and desk audit reviewer assignments.

B. Desk audit: Outcome categories

In Strategy 1 above, MN DHS reported the number of settings that were required to complete an attestation to demonstrate compliance with the HCBS rule requirements. For Strategy 2, we report the outcome of MN DHS's desk audit of each setting's attestation responses as of Sept. 5, 2018. The desk audit included a review of all supporting documents to validate each setting's compliance. The desk audit outcome categories reflect the compliance status for each setting required to submit an attestation as identified in Strategy 1. We describe the state's actions for each desk audit outcome below:

1. **Full compliance with HCBS requirements:** We will notify settings that received a desk audit outcome of full compliance with all HCBS requirements by email of this finding. We will continue to monitor settings for ongoing compliance through MN DHS oversight processes, such as licensing and provider enrollment and revalidation processes. For example, in order to meet the definition of full compliance

related to integration to the broader community, settings were required to submit evidence of offsite community activities offered. If a provider submitted evidence that showed only reverse integration to address the community integration standard, we provided technical assistance to the provider until it made practice changes and we received evidence.

- **Outreach to help providers reach full compliance with HCBS requirements:** We sent an electronic version of the HCBS Provider Attestation Audit Summary Report to those settings that did not fully comply with all HCBS requirements. This report includes electronic links to service-specific, HCBS-compliant documents developed by the state. Providers who receive an HCBS Provider Attestation Audit Summary Report fall into the "Does not comply, but could with modifications" category. Settings were required to respond to the HCBS Provider Attestation Summary Report notification within 30 days of receiving the notice. Settings that responded to the audit report with additional or revised supporting documentation received additional desk audit(s) of the newly submitted supporting documentation. After the subsequent desk audit(s), if all HCBS requirements are met, the provider is then moved to the "Full compliance" and would follow the ongoing monitoring processes as described in "Full compliance with HCBS requirements."
  The service-specific desk audit summary reports are listed here:

  - HCBS Provider Attestation Audit Summary Report for Adult Day Services (PDF)
  - HCBS Provider Attestation Audit Summary Report for Customized Living Services (PDF)
  - HCBS Provider Attestation Audit Summary Report for Disability Waiver Foster Care (PDF)
  - HCBS Provider Attestation Audit Summary Report for DTH, Prevocational and Structured Day Services (PDF)
  - HCBS Provider Attestation Audit Summary Report for Elderly Waiver Adult Foster Care (PDF)

2. **Opt out:** We are reaching out to providers that chose to opt out because they are unwilling or unable to comply with requirements. We sent an electronic notification offering technical assistance or confirming the setting's choice to opt out. We will also contact people who receive services and lead agencies affected by providers that chose to opt out, as set forth in the Person-centered, informed choice and transition protocol for people receiving services.
3. **Did not respond:** We conducted robust and focused outreach to nonresponsive providers through electronic notifications and phone calls. If we are not able to contact them, we will assume the setting is not compliant. We will provide outreach to people and lead agencies affected by settings that chose to opt out as set forth in the Person-centered, informed choice and transition protocol for people receiving services. [End add]

Table 7: Number of [End add] [Begin delete]~~attestations~~ [End delete] [Begin add]setting attestation desk audits and audit outcomes as of Sept. 6, 2018

Setting type	Number of settings	Full compliance	Does not comply, but can with modifications	Opt out	Did not respond
Foster care / SLS (Adult and Child)	4,291	4,072	192	23	4
Customized living	1,204	1,015	173	9	7
Adult day	189	126	55	8	0

Setting type	Number of settings	Full compliance	Does not comply, but can with modifications	Opt out	Did not respond
DTH, prevocational, structured day	307	301	3	3	0
Total	5,991	5,514	423	43	11 [End add]

Strategy 3: [Begin delete]~~Validation~~ [End delete]–Identify [Begin delete]~~and assess~~[End delete] Prong 1, 2 and 3 settings: [Begin delete]On-site visits and outreach-[End delete]–Presumed not to be HCBS settings

Settings [End add] [Begin delete]~~Providers will be~~[End delete] [Begin add]were also[End add] required to [Begin add]respond to the [End add] [Begin delete] ~~complete~~[End delete] attestation[Begin delete]~~s that~~[End delete] [Begin add] questions [End add] to [Begin add]self- [End add]identify [Begin delete]~~whether they~~ [End delete] [Begin add]each setting that meets[End add] the "presumed not-to- be HCBS"[Begin add] criteria, listed below:[End add]

1. **Prong 1 settings:** [Begin add]Located [End add] in a public or private institution that also provides inpatient treatment
2. **Prong 2 settings:** [Begin add]Located [End add] [Begin delete]~~A~~[End delete] adjacent to [Begin add]or on the grounds of [End add]public institutions
3. **Prong 3 settings:** Settings that have the effect of isolating people who receive HCBS from the broader community (effect of isolating)

[Begin delete]~~Settings A total of~~ [End delete] [Begin add] Of the 5,991 total settings required to complete an attestation, 465 were [End add] identified [Begin delete] ~~through the provider attestation as a~~[End delete] [Begin add] as meeting [End add] the prong 1, 2 or 3 criteria. [Begin delete]~~setting will be tracked and receive a closer state assessment described in the presumed not-to-be HCBS section.~~ [End delete] [Begin add] See Strategy 3 for more information.

MN DHS took additional steps to validate each setting's responses on the attestation that identified the setting as meeting criteria for Prong 1, Prong 2 or Prong 3. Prong 1, 2 and 3 setting information may be found in the [End add] [Begin delete]"~~Presumed Not-To-Be~~ [End delete] [Begin add]Strategies 3 and 4" sections of our STP.[End add]

In Table 7, we identify the [Begin delete]~~minimum~~[End delete] number of desk audits that [Begin delete]~~we~~[End delete] [Begin add] MN DHS [End add] [Begin delete]~~will conduct~~ [End delete] [Begin add] conducted [End add] [Begin delete]~~using a simple random sampling method~~[End delete] for [Begin add] each of [End add] the setting types listed [Begin add] and the desk audit outcome. [end add]

This section of the statewide transition plan describes the internal review process MN DHS used to identify settings that are presumed not to meet the requirements of the settings rule. First, we will outline the process [Begin add] used [End add] to identify settings based on proximity to institutions [Begin add] (Prong 1 and Prong 2), [End add] followed by the process [Begin add] used [End add] to identify settings that have the effect of isolating [Begin add] (Prong 3). [End add] [Begin delete]~~Following that is a description of the evaluation and assessment plan for settings that are presumed not to be HCBS.~~ [End delete]

Prong 1 and 2 – Identification of settings in proximity to institutions

MN DHS conducted an analysis to determine which settings are presumed not to be HCBS. Further evaluation might be necessary to determine compliance with the HCBS rule. We used mapping software to compare the location of HCBS services to the location of institutions. The analysis was strictly to identify those settings based on geographical criteria/proximity to institutions; settings that have the effect of isolating will be evaluated and

outlined below. We will not automatically classify an existing setting as not HCBS based solely on its geographic location. If a setting meets geographical criteria, the setting will have to overcome the presumption that it has institutional qualities and fully complies with HCBS rule requirements [Begin add] through an on-site assessment. [End add]

We collected paid claims from fiscal year 2015 that include provider address, then cross-referenced the unique services and setting addresses to a list of institutions. The institutions included nursing facilities, hospitals, community behavioral health hospitals (CBHH), intermediate care facilities (ICF-DD) and institutes for mental disease (IMD).

The grid below shows the number of settings that meet the presumed not to be HCBS criteria as defined by prongs 1 and 2.

Prong 1 is a setting that shares an address or a common wall with an institution. [Begin add] Settings vary greatly in the way they are configured and physically connected to institutions. To apply a consistent standard, MN DHS has determined all HCBS settings that are physically connected to an institution, in any manner, are considered to have a common wall and therefore meet the definition of "in an institution."[End add]

Prong 2 is a setting that is next to and abuts the public institution or its property. "Abuts" means that the setting is contiguous or touching the public institution or its property with no intervening parcel of land between the two settings. The list of publicly owned institutions included city, county, state, tribal and federal institutions.

In the provider attestation, providers [Begin delete]~~will be~~ [End delete] [Begin add]were[End add] asked to identify whether their setting meets the definition for either Prong 1 or Prong 2. The responses from the attestation [Begin delete]~~will be~~[End delete] [Begin add]were then[End add] cross-checked with the results of the geo-mapping analysis as a method to validate the setting location.

Table 8: Number of settings in proximity to institutions

[Begin add] Prong 1: [End add] Number of settings in a publicly or privately operated facility that provides inpatient institutional treatment	[Begin add] Prong 2: [End add] Number of settings in a building on the grounds of, or adjacent to, a public institution
97	34

Prong 3 – Identification of settings that have the effect of isolating

CMS has also identified settings that are presumed not to be home and community-based because they have the effect of isolating. MN DHS will identify, through provider attestation responses and reviews of supporting documentation, settings that have the effect of isolating.

Criteria identified in groups 1 and 2 will be used to identify settings that isolate people with disabilities and older adults. For settings that provide services funded through the BI, CAC, CADI or DD waivers, the additional characteristics in group 3 will also be used to identify settings have effect of isolating.

Prong 3 - Group 1: The state will identify day and residential settings providing services funded by the BI, CAC, CADI, DD and EW waivers/Alternative Care program that meet requirements under the rule, but still may have the effects of isolating people receiving HCBS from the broader community. [Begin add] We will review supporting documentation to determine which settings have the effect of isolating. [End add]

The following settings will be submitted to CMS for a heightened-scrutiny review if the state finds sufficient evidence to support consideration:

- Farmsteads or disability-specific farm communities
- Residential schools
- Gated or secured communities for people with disabilities

[Begin add] Table 9: Prong 3 – Group 1

Isolating characteristic	Number of settings identified that will receive a site visit in 2018-2019
Farmsteads or disability-specific farm communities	17
Residential schools	3
Gated or secured communities for people with disabilities	16 [End add]

Prong 3 - Group 2: The state will identify and develop criteria to determine if heightened CMS scrutiny is needed for the following settings:

- A setting designed to provide multiple types of services and activities to people with disabilities or older adults on-site, including any two of the following: 1) residential, 2) day services and 3) medical without the option to receive these services off-site.
- A residential setting where the provider also owns/operates multiple homes on the same street or adjacent property (does not include duplex or multiplex houses, unless there is more than one on the same street).

[Begin add]Table 10: Prong 3 – Group 2

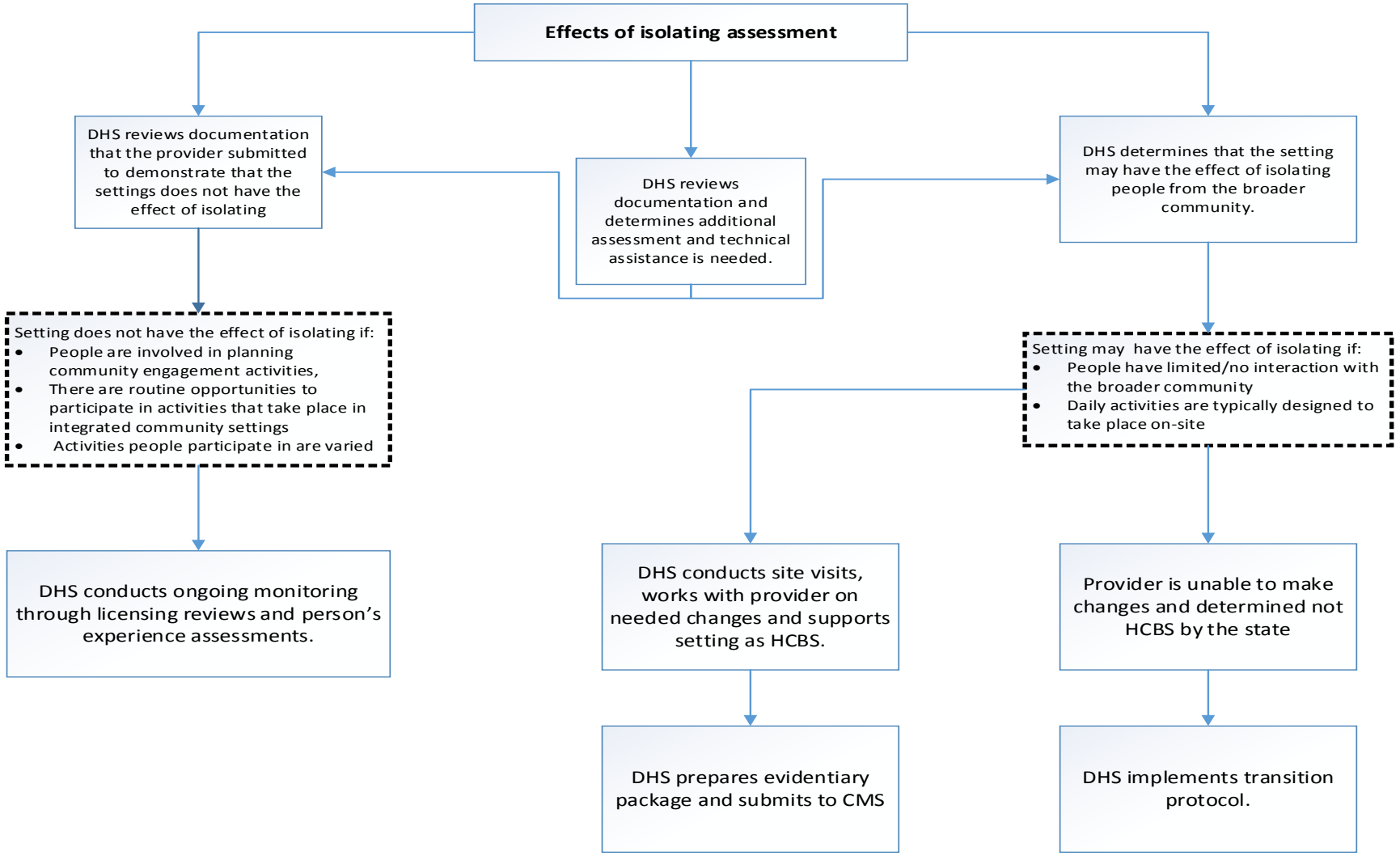
Isolating characteristic	Number of settings identified that will received a site visit in 2018-2019
A setting designed to provide multiple types of services and activities to people with disabilities or older adults on-site, including any two of the following: 1) residential, 2) day services and 3) medical without the option to receive these services off-site.	0
A residential setting where the provider also owns/operates multiple homes on the same street or adjacent property (does not include duplex or multiplex houses, unless there is more than one on the same street).	209 [End add]

We will further evaluate settings identified in group 2 to determine whether they meet criteria for having the effect of isolating. We will review settings further to determine the extent to which people have choice of community services when multiple services are on-site [Begin add] and the extent to which there is shared staffing and programming when there are multiple properties on the same street or adjacent property.

Prong 3 - Group 3: The state will identify other settings that have the effect of isolating

MN DHS will conduct an assessment of settings that meet the following characteristics, to determine if they have the effect of isolating:

- Settings (with a capacity of six or more people) that are primarily or exclusively for people with disabilities
- Settings in which 25 percent or more of the total setting capacity is intended to serve people with disabilities under the age of 55.



Readers who are using a screen reader may click here for an accessible text version of this chart

In order for DHS to determine that a setting does not have the effects of isolating, the setting must demonstrate:

- Regularly engage people in discussions about what they would like to do or participate in
- Survey people about their interests on a regular basis — monthly at minimum
- Describe person-centered, individualized service, support planning processes and practices
- Plan and provide routine opportunities for community activities

- Have varied schedules
- Assess interests and make schedules at both individual person and setting levels.

We will identify settings that may have the effect of isolating based on the following criteria:

- No process for planning daily/community activities
- Schedules are not varied – daily activities are the same for everyone; no individualized options.
- Reverse integration is the primary method of "community engagement"
- Limited or sporadic opportunities – less than once a month – are provided for people to access the community or there are barriers to accessing the community
- Large group "bus field trips" (greater than four people) are the only option
- Community opportunities are provided at a "group" level and not individualized

Table 11: Prong 3 – Group 3

Isolating characteristic	Estimated number of settings that will receive a site visit in 2018-2019
The setting (with a capacity of six or more people) is primarily or exclusively for people with disabilities or 25 percent or more of the total setting capacity is intended to serve people with disabilities under the age of 55 and 1. People have limited, if any, interaction with the broader community or 2. Daily activities are typically designed to take place on-site.	89 [End add]

All providers will have the opportunity to demonstrate that the setting meets the requirements of a home and community-based setting, as defined by the CMS rule. Settings identified in group 3 will not be determined to have the effect of isolating solely because of concentration levels. No provider will be determined not to be home and community-based solely because of the concentration levels. Information obtained during the assessment will determine what the ongoing evaluation criteria will be and will be submitted through the waiver-amendment process.

In summer 2016, we conducted on-site visits to select residential settings to explore best practices in current settings designed for people with disabilities. The insights gained from these visits informed the development of service standards and expectations for similar types of settings. These

standards and expectations would increase community inclusion, opportunities and choice for people in these settings and offset any isolating factors within the existing congregate setting. [Begin add] Onsite visits also informed the tiering for future settings. [End add]

New settings for people with disabilities (further described under Tiered Standards) will not be allowed if they are presumed not to meet the requirements of the settings rule or if they fall under groups 1, 2 or 3, unless approved through a needs-determination process. We are developing a needs-determination process (with input from stakeholders) and are developing criteria that settings must meet for state approval.

Strategy 4: Assess and validate Prong 1, 2 and 3 - Presumed not to be HCBS settings: On-site visits and outreach

[Begin delete] ~~Assessing compliance of presumed not HCBS settings~~ [End delete]

MN DHS will evaluate each setting presumed not to be HCBS based on institutional proximity and effects-of-isolating criteria to determine if there is evidence the setting can overcome this presumption.

We will evaluate [Begin delete] ~~these~~ [End delete] [Begin add]all presumed not to be HCBS [End add] settings by assembling results from:

- Provider attestation and desk audits
- Site-specific compliance plans from the provider attestation
- On-site visits and observations
- Setting-specific transition plans from on-site assessment findings
- Public comments
- [Begin delete]~~Person's experience assessments~~
- ~~The analysis from settings identified as presumed not to be HCBS~~[End delete]

The evaluation process will include one-on-one outreach,[Begin add] including additional supporting documentation from providers and/or a site visit.[End add] [Begin delete]~~All settings identified in Prong 1, 2 or 3 will have an on-site visit conducted by HCBS trained DHS staff.~~[End delete]

[Begin add]Prongs 1,[End add][Begin delete]~~and~~[End delete][Begin add] 2 and 3 – On site assessment of settings [End add] [Begin delete]~~in proximity to institutions~~[End delete]

MN DHS began on-site assessments across the state at each of the [Begin add] 465 [End add] settings identified in [Begin add] Table 8: Number of settings in proximity to institutions [End add] in April 2017 [Begin add] and began on-site assessments of 465 settings identified in "Table 9: Prong 3 - Group 1, Table 10: Prong 3 - Group 2 and Table 11: Prong 3 - Group 3 in July 2018 and plan to complete these visits by March 2019. We developed an on-site assessment protocol that includes observation information and interview tools to collect the evidence needed for the state to support that the setting is HCBS, and not institutional or isolating in nature. MN DHS staff received training for the on-site visit protocol. In addition to the training, regional MN DHS staff were also

required to follow a subject matter expert during an on a site-visit and then had to be observed by a subject matter expert while performing an on-site visit before performing on-site assessments independently.

The tools developed by MN DHS to help the on-site assessor to collect evidence of a setting's HCBS compliance, include:

- **Site visit staff process for HCBS provider site visits** – This is a step-by-step guide for on-site assessment staff to complete the visit process. Steps include initial contact with the setting, confirmation of site visit dates, site visit assessment steps, documentation of findings, reporting the evidence back to the subject matter expert and followup communication with the setting.
- **Site visit lead process for hcbs provider site visits** – This is a step-by-step guide for leads (subject matter experts) to follow before assigning an on-site visit to an assessor. It also includes the steps required after the completion of the site visit to ensure accurate tracking and documentation. This may include sending a HCBS Provider Transition Plan to a setting to notify the provider of non-compliance, if required.
- **HCBS provider site visits – observation protocol** – This document lists factors that an assessor is required to observe. The assessor must take photos as evidence of the presense or absence of each factor. The document provides descriptions of CMS criteria that are used to identify whether a setting has HCBS characteristics, institutional characteristics or effects of isolating. The sections included in this tool include:
  - **Transportation**
    - Information posted
    - Transportation vehicles observed
  - **Setting and facility entrances and signage (designated space)**
    - Separate signage and/or entrances
    - HCBS designated space
    - Storage of personal belongings
  - **Residential settings – integration into the community**
    - Local community surroundings
    - Visitors
    - Geographic location
  - **Community life activities**
    - Calendars, bulletin boards
    - Visible signs of restriction: gates, Velcro strips, locked doors, fences or other barriers
  - **Engagement with the broader community**
    - People moving about inside and outside the setting
    - People or activities from the community occurring on-site
  - **General observations:**
    - Dignity and respect
    - Dining experience
    - Locks on living unit doors
    - Individual living unit decorations and furnishings
- **HCBS provider site visits - administration and staff interview protocol –** This document guides the assessor through a series of questions to ask of both the setting administrator (or his/her designee) and a direct care staff person (nurse, personal care aide, other staff person providing hands-on care) about how the setting is meeting HCBS compliance requirements. These interviews are done individually and separately. The sections included in this tool include:

- **Interconnectedness between the facility/institution and the setting**
  - Shared staffing between institutional setting and HCBS setting
- **Community life activities**
  - Multiple questions regarding on-site and community-based activities facilitated by the setting, individually and in groups.
  - Person's right to choose to participate in activities, as desired
  - Setting's restrictions of or policies about person's coming and going from the setting
- **Transportation**
  - Options available
  - Methods used and information provided to notify people of transportation services and options
  - Setting's transportation support services provided
- **Food/snacks**
  - Availability of food at any time
- **Choice of providers**
  - Day or medical services provided on-site
  - Methods used or information provided to notify people of their right to choose where and from whom to receive services
  - Supports provided to people to obtain services from community providers
  - Setting's restrictions or policies on use of community providers
- **Employment**
  - Status of people who currently work or volunteer in any capacity
  - Setting's accommodations for people who work or volunteer
  - Additional questions about employment, specifically for day training and habilitation, prevocational and structured day settings.

- **HCBS provider site visits - person interview protocol –** This document guides the assessor through a series of questions to ask of a minimum of two people who receive services at the setting about how their HCBS rights requirements are being met. These interviews are done individually and separately with people who are receiving services, able to give consent and are willing to be interviewed. Each person interviewed was provided a verbal Tennessen Warning before the interview. The sections included in this tool include:
  - **Quality of services**
    - Person's rating of overall quality of services received at the setting
  - **Community life activities**
    - Discussion of the person's awareness of the setting's activity calendar
    - Types of on-site and community activities the person enjoys the most
    - Person's preferences for attending on-site and community activities
    - Frequency of attending community-based activities
    - Person's satisfaction with frequency of community-based activities
  - **Food/snack**
    - Availability and options to access food at any time
  - **Transportation**
    - Setting's options and/or process to provide support to obtain transportation, when desired.
  - **Employment**
    - Work and/or volunteer status and frequency
    - The work or volunteer preference of the person who receives services

- **Choice of providers**
  - Awareness of the person's right to choose community-based providers
  - Person's current choice of community-based or setting-based providers
  - Setting's supports provided to the person when he or she chooses to use a community-based provider
- **Additional questions for people who live in HCBS residential settings**
  - Questions to ensure that people who receive services are aware of and provided the HCBS rights required under the federal rule. Rights topics include:
    - Choice of daily schedule
    - Access to personal resources
    - Lease/residency agreement
    - Privacy in living unit, including locks on doors
    - Choice of roommate, if shared living space
    - Decorating and furnishing personal living space
    - Physical accessibility of personal living space and common areas of the setting
    - Visitors at any time[End add]

[Begin delete] ~~DHS will determine which settings have overcome the presumption of not being HCBS. DHS will submit an evidentiary package for these settings to CMS for heightened scrutiny. Proposed submissions to CMS for heightened scrutiny will be announced publicly. The public will have an opportunity to comment about the settings in question. A summary of public comments will be submitted as part of the updated transition plan.~~ [End delete]

Prong 1, 2 and 3 - Setting-specific transition plans and outreach

If MN DHS determines, as a result of on-site assessment, that a setting in [Begin add]prong 1, 2 and 3 has characteristics that make it institutional or isolating in nature, [End add] we will identify and communicate to the provider what changes it will need to make to receive state support that the setting is HCBS. The state will [Begin delete] ~~provide tools and information to~~ [End delete] support the provider by sending an instructional email, including the HCBS Provider Transition Plan document. [Begin delete]~~with needed changes.~~ [End delete]

[Begin add]The HCBS Provider Transition Plan document (PDF) includes detailed information, unique to the setting, to inform the provider of each institutional, isolating or other non-HCBS finding that is determined not to be in compliance with the HCBS rule requirements.

The document includes a section for each finding. Each section lists the following:

- Compliance status
- HCBS requirement
- Institutional or isolating quality found
- MN DHS resources, recommendations and/or guidance
- Transition plan; and

- Date action completed (by the provider)[End add]

DHS instructs the provider to complete an action plan with steps the setting will take or has taken to remedy each of the institutional or isolating qualities identified on the form. The provider must return the completed form to MN DHS within 60 days of receipt of the notice. The provider may also submit additional supporting information for MN DHS review. Examples of supporting documentation might include revised provider policies, training curriculum and pictures of setting changes, such as new signage or locks on living unit doors.

If the setting is unable to take the necessary steps to comply with the HCBS requirements, we will start the Person-centered, informed choice and transition protocol [Begin delete]~~relocation~~ [End delete] [Begin add]for people who receive services.

Submitting information to CMS for heightened scrutiny

MN DHS will determine which settings in prongs 1, 2 and 3 have overcome the presumption of not being HCBS.

We will use the following sources of information to develop this setting's evidentiary package (PDF):

- The setting's attestation and additional information submitted to MN DHS
- Geo-mapping and location demographics
- Licensing review findings, if available and applicable
- On-site assessment findings
- Public comments in response to the evidentiary package

Public comment period

Proposed submissions to CMS for heightened scrutiny will be announced publicly. The public will have an opportunity to comment about the settings in question. DHS will submit a summary of public comments as part of each evidentiary package that is submitted. We will seek public comment for 30 days about the state's determination that the settings have overcome the institutional presumption. We will seek comment by methods including, but not limited to the following:

- Evidentiary package will posted online at Home and Community Based Services Rule transition plan website
- Notice of the public comment period will be made via eList announcements
- Lead agency notification via regional resource specialists
- Provider notification by email/direct mail
- Disability Hub virtual insight panel

Submission of evidentiary package to CMS for heightened scrutiny

MN DHS will evaluate all of the evidence collected and summarize the public comments received during the public comment period. If we find that the evidence collected supports the setting as having the characteristics of an HCBS setting and not of an institution or having the effects of isolating, MN DHS will submit the setting's evidentiary package to CMS for heightened scrutiny. Batches of evidentiary packages will be submitted to CMS quarterly.

CMS final determination

CMS will notify MN DHS of the final heightened-scrutiny determination for each setting. One of the following two outcomes is possible:

1. CMS will determine the evidence submitted supports the state's recommendation. The setting does in fact have the characteristics of an HCBS setting and does not have the characteristics of an institution or effects of isolating.
2. CMS will determine the evidence submitted does not support the state's recommendation. The setting does not have the characteristics of an HCBS setting and does have the characteristics of an institution or the effects of isolating.

Notification of heightened scrutiny final determination

MN DHS will notify the provider of CMS's final determination after heightened scrutiny.

We will also publish the determinations for each submitted setting on the Home and Community Based Services Rule transition plan website.

Strategy 5: Residential [End add] [Begin delete]T[End delete] tiered standards for BI, CAC, CADI and DD waivers

We are working with existing HCBS settings to meet, at minimum, the basic requirements of the HCBS rule. We will, however, require higher standards for designated new service settings. New setting standards will address the intent of HCBS standards more fully and support community-inclusive service models.

The following new developments/settings serving people with disabilities on the BI, CAC, CADI and DD (DSD) waivers will be subject to a higher state standard:

Customized living for people with disabilities on the BI and CADI waivers

The customized living (CL) service provides a package of individualized health-related and support services to a person in a congregate setting. The service design focuses on supporting older adults as part of the [Begin add] array of [End add] community service options. CL services include a variety of living arrangements, including single site, congregate site, scattered site and clustered site. Each of these settings has a different level of provider

control. As the state, community of providers, families and people with disabilities have sought ways to support independent living in the community, CL's original service design has been stretched to fill the gaps in waiver services. The CL service was not designed to provide the level of treatment, support and behavioral services that adults who receive CADI and BI waiver services might need to live in the community.

MN DHS recognizes why CL is used to fill in the service gaps, but we must address the confusion caused by the lack of a clear distinction between the services delivered in different types of living arrangements.

We plan to address these gaps and the [Begin add] array [End add] of service needs by:

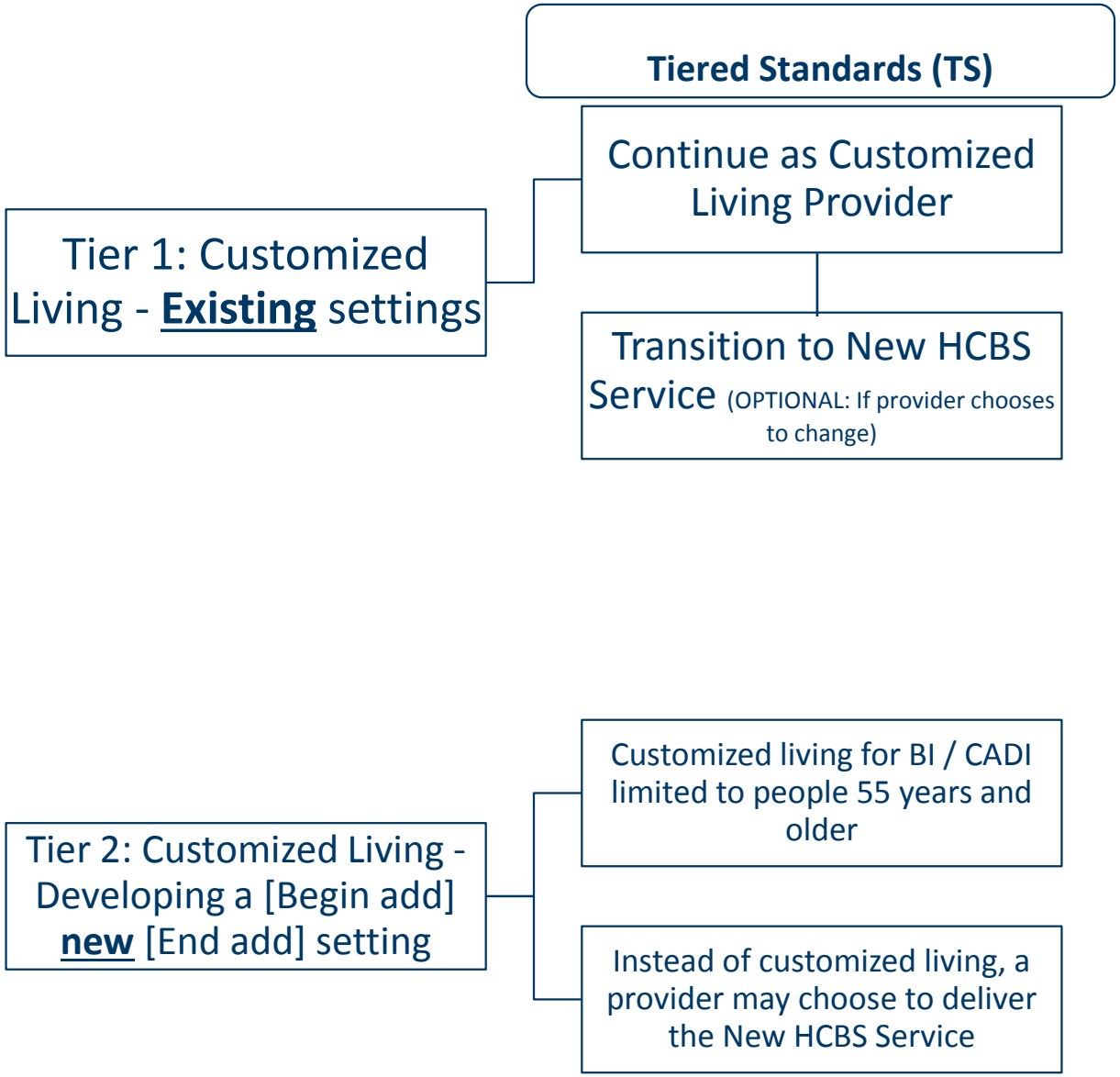
- Creating a tiered set of standards for customized living services
- Creating a new service ([Begin delete] ~~yet to be named~~ [End delete] [Begin add] integrated community supports [End add]) to address the gaps in the [Begin add] current service menu [End add] [Begin delete] ~~service continuum~~ [End delete]. We will do that by aligning waiver services based on a person's living arrangement
- Clarifying the definition of a person's own home.

[Begin delete] ~~Throughout the development of the new service, there will be~~ [End delete] [Begin add] There was [End add] broad stakeholder engagement [Begin add] in designing integrated community supports throughout a two-year process that included [End add] [Begin delete] ~~that includes~~ [End delete] people with disabilities, families, advocates, [Begin add] trade associations, [End add] community providers, lead agencies and state agencies. [Begin add] We will continue to partner with stakeholders throughout the implementation of integrated community supports. [End add]

Current CL settings (Tier 1): For current CL settings that comply with the HCBS settings rule, the setting may continue to deliver CL services to adults on the BI and CADI waivers. [Begin add] To ensure all Tier 1 CL settings comply with the HCBS rule requirements, each Tier 1 CL setting must complete a site-specific assessment and validation strategy. See strategy 1 and strategy 2 for details about the site-specific assessment process and validation strategy. [End add] We do not intend to monitor site capacity when we implement Tier 1 standards for CL service settings. This will allow Tier 1 CL settings to continue supporting current and new adults in the setting.

New CL settings (Tier 2): New CL service settings will be limited to people aged 55 and older on BI and CADI waivers. The new CL service setting must comply with service standards for the Elderly Waiver. People aged 55 and older may choose CL or other service options to meet their needs.

The implementation of the CL Tier 1 and 2 standards will correspond to the implementation of the new HCBS service for BI, CAC, CADI and DD waivers. We do not intend to monitor [Begin add] Customized Living [End add] site capacity at the time of implementing the Tier 1 standards for CL service settings. This will enable Tier 1 CL settings to continue supporting current and new adults in the setting.


Tiered Standards (TS)
Tier 1: Customized Living - Existing settings
Continue as Customized Living Provider
Transition to New HCBS Service (OPTIONAL: If provider chooses to change)
Tier 2: Customized Living - Developing a [Begin add] new [End add] setting
Customized living for BI / CADI limited to people 55 years and older
Instead of customized living, a provider may choose to deliver the New HCBS Service

New Medicaid home and community-based services (HCBS) service for BI, CAC, CADI and DD waivers:

[Begin add] The new HCBS service name is called Integrated Community Supports. Integrated Community Supports will [End add] provide a new option for people 18 [Begin delete] ~~to 54 years old, as well as people 55~~ [End delete] [Begin add] years of age [End add] and older [Begin add]. [End add] [Begin delete]~~,~~ [End delete] MN DHS will develop [Begin delete] ~~a new HCBS waiver service to substitute for CL~~ [End delete] [Begin add] integrated community supports to add to the array of services, creating the option of [End add] [Begin delete]~~in~~ [End delete] new [Begin add] service [End add] settings [Begin add] that serve [End add] [Begin delete] ~~serving~~ [End delete] people [Begin delete] ~~in~~ [End delete] [Begin add] who use [End add] the BI, CAC, CADI and DD waivers.

[Begin delete] ~~To The new HCBS waiver service would~~ [End delete] To [Begin delete] ~~support the spectrum of~~ [End delete] [Begin add] reflect all available [End add] residential setting options, [Begin delete] ~~the new~~ [End delete] [Begin add] integrated community supports [End add] service will support people [Begin delete] ~~living in a living unit (e.g., apartment) that~~ [End delete] [Begin add] who live in a setting that [End add] does not meet the definition of a person's "own home." [Begin delete] ~~This means a~~ [End delete] [Begin add] in settings delivering integrated community supports, the [End add] service provider [Begin delete] ~~has~~ [End delete] [Begin add] will have [End add] a level of control over the living unit.[Begin add] Implementing integrated community supports will require legislative approval before adding the service to our waivers via the waiver-amendment process. [End add] [Begin delete] ~~that does not meet the requirements of a residential program. Settings where this new service is developed will limited to 25 percent of residents that receive HCBS services funded by BI, CAC, CADI or DD waivers in order to ensure that settings, by their nature, do not isolate or create a stigma for people living there.~~ [End delete]

The new [Begin add] HCBS [End add] service:

- Will be licensed under Minnesota Statutes, Chapter 245D
- May deliver up to 24 hours of service in a day
- Will provide supervision, assistance and, as needed, skill development [Begin add] for adults 18 years and older in four community-living service areas :
  - Community participation
  - Health, safety and wellness
  - Household management
  - Adaptive skills

HCBS service providers will deliver integrated community supports in multifamily housing (e.g., apartment units, etc.) the HCBS provider owns, leases or has direct or indirect financial relationship with the property owner. These are considered HCBS provider-controlled settings. Only one HCBS provider may deliver integrated community supports service in the HCBS provider-controlled setting. A person may live in these settings and receive HCBS services from a different HCBS provider who is not the HCBS provider who controls the residential setting.

A HCBS provider who controls a setting may provide the integrated community supports in:

- All of the units in a multifamily building of four or fewer units
- A setting with fewer than 25 percent of people funded under BI, CAC, CADI and DD waivers who receive integrated community supports in the HCBS provider-controlled units.

- A setting that serves 25 percent or more of people funded under the BI, CAC, CADI and DD waivers who receive the integrated community support service in HCBS provider-controlled units must have a site-specific review approved.

When 25 percent of a setting's BI, CAC, CADI and DD waiver recipients use the integrated community supports, or when the HCBS provider anticipates or plans the setting will serve greater than 25 percent of people funded under BI, CAC, CADI and DD waivers who receive the integrated community support service in the HCBS provider-controlled units, the HCBS provider that controls the setting must complete a site-specific review process to receive MN DHS approval. The HCBS provider who controls the setting will submit supporting documentation to MN DHS, via a site-specific review process, to validate the setting is HCBS and does not isolate or create a stigma for people living there.

When fewer than 25 percent of a setting's BI, CAC, CADI and DD waiver recipients use the integrated community supports service, a site review by MN DHS is not required. [End add]

[Begin delete] ~~To ensure settings do not isolate or create a stigma, DHS will review settings through a needs-determination process if the setting is designed to serve more than 25 percent of people with disabilities using home and community-based services.~~

~~We~~ [End delete] [Begin add] MN DHS [End add] will approve the [Begin delete] ~~needs determination when~~ [End delete] [Begin add] site-specific review if [End add] it:

- Meets basic HCBS setting characteristics and [Begin add] to-be-determined [End add] additional requirements (as developed through stakeholder input)
- Explains other options available in the community through an informed-choice process. [Begin add] This includes how the HCBS service provider ensures people are given informed choice of service options and integrated community support service delivery in the setting. [End add]

Housing that is developed, funded or designed specifically for people with disabilities [Begin add] to receive Medicaid HCBS BI, CAC, CADI or DD waiver services [End add] must be approved through the [Begin delete] ~~needs-determination~~ [End delete] [Begin add] site-specific review [End add] process before the new service may be authorized and paid for in the setting.

[Begin add] In addition to existing guidance on HCBS Rule compliance (i.e., the HCBS Provider Attestation guidebooks under "Attestation resources by service" and A Provider's Guide to Putting the HCBS Rule Into Practice), providers must meet additional requirements as part of the site-specific review process to ensure settings do not have the effects of isolating. That may include, but is not limited to:

- Describing how opportunities are present and available for people to interact with the broader community individually and in groups, as they desired. (e.g., how often people are asked about their interest in activities in the community, how people participate as desired, etc.)
- Describing how people may choose activities to participate in individually (e.g., not everyone has the same activities or schedule, how people are informed of available activities, etc.)
- Describing how people are informed that they may choose offsite community service providers (e.g., people may choose to go offsite to a salon for a haircut or to a clinic for counseling services, etc.) [End add]

Clarifications to the definition of the person's own home

To provide a clearer expectation of what a person's own home means, MN DHS developed a standard definition of the Requirements for a person's own home, which has been published in our on-line Community-Based Services Manual (CBSM). Over the past several years, to support new living options for people, the community of providers arranged or developed service options that were not recognized by the policy definition of a person's own home or a residential service because the provider maintained some level of influence over the housing. During this same time, we analyzed the different definitions of a person's own home in our waiver plans, statutes and policy. To develop the new HCBS waiver service (to replace CL for people age 18-54) for BI, CAC, CADI and DD and to support the full service continuum, we will further clarify the definition of a person's own home.

The current requirements for a person's own home require the person to:

- Sign a lease agreement that outlines the responsibilities of the person and the responsibilities of the landlord
- Select a service provider(s), based on individual assessed needs and preferences
- Maintain the home (as outlined in the lease agreement) independently, through natural supports or through a provider(s) chosen and paid to assist with home maintenance; and
- Pay for all room and board costs (i.e., rent/mortgage, food, home maintenance, etc.) with personal resources and/or public funding.

MN DHS will [Begin add] consider [End add] clarify[Begin add]ing the [End add] [Begin delete] ~~that a~~ [End delete] person's own home [Begin add] definition to include factors that support: [End add]

- [Begin delete] ~~Must be rented on the open market~~ [End delete]
- [Begin add] Housing that does not require a person to have a specific disability with the expectation that the person receives HCBS waiver-funded services to live in the residence
- Housing that does not market or advertise that the apartment building is specifically designed for people with disabilities to receive HCBS waiver-funded services or promote specific programming for people with disabilities to receive HCBS waiver-funded services. [End add]

The setting where the person lives is a private residence not owned by an unrelated caregiver (who is paid for providing HCBS services to the person). A setting owned by an unrelated caregiver is considered a provider-owned or controlled setting and cannot be considered a person's own home.

[Begin delete] ~~For purposes of HCBS-funded services, DHS will clarify that a person's own home:~~

- ~~Must be rented on the open market~~
- ~~Does not require a person to have a specific disability and expectation to have services funded with HCBS~~
- ~~Does not market or advertise that the apartment building is designed for people with disabilities or promote specific programming for people with disabilities.~~ [End delete]

Changes to the definition of "own home" will factor in affordable housing policies and funding. The goal is to align the appropriate services with each type of living arrangement.

We will post definition of terms to clarify the person's own home policy in our CBSM.

[Begin add] To support tiered standards and people who live in their own home, [End add] MN DHS [Begin delete] ~~will add or expand~~ [End delete] [Begin add] added or expanded the [End add] [Begin delete]~~following~~[End delete] [Begin add] service options identified in the 2017-2018 remediation activities (Developed new services). Through the waiver amendment process, MN DHS will ensure supports are aligned across the full array of living arrangements on the BI, CAC, CADI and DD waivers. [End add] [Begin delete] ~~through the waiver amendment process, the following service options supporting people who live in their own homes:~~ [End delete]

Supports across the full [Begin delete] ~~continuum~~ [End delete] [Begin add] array [End add] of living arrangements means (BI, CAC, CADI, and DD waivers):

To create more opportunities and options for people, we will clarify and enhance the [Begin delete] ~~continuum~~[End delete] [Begin add] array [End add] of living arrangements. By identifying the full [Begin add] array of [End add] services [Begin delete] ~~continuum~~ [End delete], we will identify and develop supports for living arrangements that fall between a person's own home and [Begin delete] ~~fully~~ [End delete] [Begin add] current [End add] provider-controlled [Begin add] settings [End add]. For such living arrangements, we will develop a structured option [Begin add], still considered provided controlled, [End add] for a person to assign specific responsibilities for support to a provider without the home being licensed. [Begin add] This structured option is the new HCBS service as described in tiered standards for customized living. [End add] By supporting a continuum of housing choices, including self-contained living units [Begin add] in a multifamily building [End add](e.g. an apartment) that are not congregate settings, we [Begin delete] ~~allow~~ [End delete] [Begin add] support [End add] people to live in more integrated settings with appropriate [Begin add] services and [End add] supports within their communities. [Begin add] The full [End add] [Begin delete] ~~continuum~~ [End delete] [Begin add] array [End add] of living arrangements includes services in a person's own home, services in settings where the integrated community supports [Begin delete] ~~new HBCS service~~ [End delete] [Begin add] are delivered and in licensed residential settings.

MN DHS will consider a possible moratorium on new foster care or supported living settings that would be collocated and operationally related; any moratorium would include an exception process that would take into account the unique characteristics of each county and identified needs of people seeking services.

Strategy 6: Non-residential tiered standards for BI, CAC, CADI and DD waivers

Tier 1: MN DHS will add or expand, through the waiver-amendment process, the following non-residential service options. [End add]

Day training and habilitation services:

DT&H was one of the earliest community services in Minnesota. Families and churches often started these services to help people living at home with their families. The services have evolved over time. DT&H services [Begin add] became [End add] [Begin delete] ~~are currently considered~~ [End delete] bundled services because of the multitude of services covered under DT&H, such as skills-development, therapies, behavioral supports, transportation, community integration, paid on-the-job training and supported employment.

We [Begin add] knew we needed to make [End add] [Begin delete] ~~know we must make~~ [End delete] substantial changes to our DT&H service definition. [Begin add] These [End add] [Begin delete] ~~This~~ [End delete] [Begin add] changes[End add] [Begin delete] ~~change is~~ [End delete] [Begin add] were [End add] needed to ensure the service meets the definition of a home and community-based service and aligns with the Employment First policy. We [Begin add] began [End add] [Begin delete] ~~have been~~ [End delete] working with stakeholders on a plan that will unbundle DT&H services to make it easier for people to make clear choices about services. [Begin add] These [End add] [Begin delete] ~~This change~~ [End delete] [Begin add] changes [End add] [Begin add] would [End add] [Begin delete] ~~will~~ [End delete] increase community integration and inclusion and increase competitive employment outcomes across all the BI, CAC, CADI and DD waivers.

As part of our plan, [Begin delete] ~~we have proposed~~ [End delete] legislation [Begin delete] ~~for consideration in the 2017 governor's budget which~~ [End delete] [Begin add] was approved and went into effect on July 1, 2018, for new employment services. This legislation [End add] [Begin delete] ~~will pull~~ [End delete] [Begin add] pulled [End add] the [Begin add] community [End add] employment components out of the current DT&H service [Begin add] and separated supported [End add] employment services to create three distinct services [Begin add] that are [End add] available across the BI, CAC, CADI and DD waivers:

- **Employment exploration** (BI, CAC, CADI, DD waivers): Employment exploration services (EES) is an orientation and experience-based service that introduces a person to the world of work. We intend it to occur predominantly in the community. EES is designed to help people to learn more about competitive employment and make an informed choice about competitive employment. This service is for those who are undecided about working competitively; it is not a prerequisite for employment development services (EDS). People who already know they want to work should go directly into EDS.
- **Employment development** (BI, CAC, CADI, DD waivers): Employment development services (EDS) is an individualized service that actively helps a person to achieve competitive employment in the community consistent with his or her strengths and interests. Services are 1:1 and culminate with the person either successfully obtaining competitive employment within a community business, becoming self-employed or establishing a microenterprise business in his or her community.
- **Employment support** (BI, CAC, CADI, DD waivers): Employment support services (ESS) is a community-immersed, individualized assistance and support service that helps people maintain their competitive employment in a community business, their self-employment or their microenterprise business. ESS will also include training and support for time-limited, community-based group employment.

This change will further Minnesota's Employment First policy to provide people the opportunity to seek employment and work in competitive, integrated settings. It will promote inclusion in the community and ensure people receive enough information about employment, through exposure and actual experiences, to make an informed choice. Individual service plans will reflect more accurately the services people receive and lead to better outcomes.

The [Begin add] other [End add] [Begin delete] ~~second~~ [End delete] part of our plan to bring DT&H into compliance with the HCBS rule [Begin add] was [End add] [Begin delete] ~~is~~ [End delete] to redefine, in collaboration with various stakeholders, our DT&H service. We [Begin add] have been working to [End add] [Begin delete] ~~are clarifying the~~ [End delete] [Begin add] create a new day [End add] service [Begin add] and service [End add] definition so people can identify what they want from the provider in order to meet their goals and achieve their desired outcomes. The focus [Begin add] will [End add] [Begin delete] ~~needs to~~ [End delete] be on developing and maintaining essential and personally enriching life skills, along with the necessary therapies, support and training needed for people to participate fully in their preferred activities and communities. Through a person-centered planning process, people will work with teams

to help them to identify things that are important to and for them. Providers will then develop opportunities for people to build skills to access their communities independently and/or provide the support necessary for people to engage in desired community activities. Current structure around staffing ratios and related impact on rates will be evaluated and adapted as necessary to fit the more individualized needs of the service [Begin add] once we finalize the service definition. [End add]

People across the BI, CAC, CADI and DD waivers will be able to access the [Begin add] new day service [End add] [Begin delete] ~~redesigned DT&H services~~ [End delete] while receiving any of the new employment services. This will further support people as they explore, seek or maintain competitive employment by providing them the option to increase their engagement in community life at the same time. It will also serve as a valuable resource for people who are not interested in employment, or for whom it's not the right time for work (e.g., instability in a person's health or aging into retirement phase of life). People will benefit from the service in a wide variety of ways based on their individual interests, needs and abilities. We will work with stakeholders to develop a process that ensures people continue to receive employment-related counseling, information and experiences. This will ensure they have the best service options to meet [Begin add] their [End add] [Begin delete] ~~the person's~~ [End delete] needs and ensure continued informed choice.

[Begin add] Prevocational services:

We have been working with stakeholders to develop a plan to move the paid on-the-job skills-training component of DT&H into prevocational services. The parts of this service that fall under the definitions for EES, EDS and ESS will move to those respective services. We will be expanding prevocational services to include people on the DD waiver.

Structured day service:

Through our continued work with the people using the service, Minnesota's Brain Injury Advisory Group and other interested stakeholders, we will work to strengthen the focus of this service on development of the essential skills needed for the person to experience community inclusion.[End add]

Adult day service for people with disabilities on the BI, CADI or DD waivers:

Adult day services (ADS) provide supervision, care, assistance, training and activities based on the participant's needs and directed toward the achievement of specific outcomes as identified in the community support plan. Services must be designed to meet both the health and social needs of the participant. Services must be appropriate in providing care and supervision.

To ensure compliance with the HCBS rule requirements, MN DHS will set criteria for participating in adult day services that incorporate:

- Informed choice
- Individualized, age-appropriate need for the service
- A person's desired outcomes and assessed goal(s).

Regardless of age, people on the BI, CADI or DD waivers will be able to make informed choices about their schedules, community integration, activities and other services that may meet their needs in addition to or instead of this service.

People receiving BI, CADI or DD waivers [Begin add] who are [End add] currently using adult day services, regardless of age, may continue to use adult day services if they have an assessed need for the service and if they choose it. The case manager must ensure all people have information about the continuum of services available to them.

Tier 2: Continue progress from Tier 1, and taking things to the next level

Redefine DT&H services:

The second part of our plan to bring DT&H into compliance with the HCBS rule is to, in collaboration with various stakeholders, redefine our DT&H service. We are clarifying the service definition so people can identify what they want from the provider in order to meet their goals and achieve their desired outcomes. The focus needs to be on developing and maintaining essential and personally enriching life skills, along with the necessary therapies, support and training needed for people to participate fully in their preferred activities and communities. Through a person-centered planning process, people will work with teams to help them to identify things that are important to and for them. Providers will then develop opportunities for people to build skills to access their communities independently and/or provide the support necessary for people to engage in desired community activities. Current structure around staffing ratios and related impact on rates will be evaluated and adapted as necessary to fit the more individualized needs of the service.

Revise the needs determination for DT&H, [Begin add] **prevocational, structured day and adult day service (for people under age 55):** [End add]

Minnesota has long used a needs-determination process to plan the development of DT&H services. That process requires lead agencies to complete an application any time they want to create, expand or increase DT&H services. As part of our DT&H redesign effort, we will continue to revise our needs-determination process to include a greater emphasis on community inclusion. We will consider size limits and a possible moratorium on new DT&H, [Begin add] prevocational service and structured day program settings; [End add] any moratorium would include an exception process that would take into account the unique characteristics of each county and identified needs of people seeking services. [Begin add] In addition, we will work with stakeholders to establish criteria for new site locations to be considered integrated into their community, taking geographic location into account.

As mentioned above, [End add] we will consider size limits and identify characteristics that would be needed for new sites to be fully integrated into their communities [Begin add], [End add] [Begin delete]. We will [End delete] tak[Begin add]ing[End add] [Begin delete]e [End delete] each county's geographic location into account.

[Begin add] Put limits on prevocational services:

In addition to a needs-determination process to plan development of prevocational services, we have been working with stakeholders to set criteria for prevocational services including a time limit of three years for the service for any new enrollments. We will require that prevocational services be taken in conjunction with either the new day service or EES. This approach will allow people to explore what employment might mean for them, which might look very different from one person to the next. [End add]

- [Begin delete] ~~***Supported employment:*** We developed a plan with our stakeholders and proposed legislation to separate this service into three separate services: employment exploration services, employment development services and employment support services.~~

~~Employment support services (ESS) will provide ongoing support to people working in both group and individual employment positions. The rate will be different based on which type of employment it is, with preference given to individual employment.~~

~~DHS staff visited job sites where these services were being provided to gain a better understanding of the types of work arrangements that are occurring. We also held focus groups with stakeholders to share our findings and get input from them. These focus groups helped to define group and individual employment as it looks now, as well as how it might look in the future. For example, at a later date, we will pay the higher individual employment ESS rate only for employment that meets the Employment First policy's definition of competitive employment.~~

- ~~***Prevocational services:*** We will work with stakeholders to develop a plan to move the paid on-the-job skills-training component out of DT&H and into prevocational services. The parts of this service that fall under the definitions for EES, EDS and ESS will move to those respective services. We will expand prevocational services to include people on the DD waiver. At the same time, we will work with stakeholders to set criteria for prevocational services including time limits for the service. We will also develop a process that will require people receive employment-related counseling, information and experiences both before enrollment and while receiving this service to ensure continued informed choice. This approach will allow people to explore what employment might mean for them, which might look very different from one person to the next.~~ [End delete]

-[Begin add] <u>These</u> [End add] [Begin delete] ~~DT&H~~ [End delete] services currently vary widely; some providers will need to make more changes than others. Throughout the transition, MN DHS will provide information and technical assistance to the people being served and help providers adjust their business models as needed. Several factors will affect the transition, such as licensing standards, service definitions and corresponding payment rates. It may take several legislative sessions to make all of the policy and fiscal changes needed for a sustainable shift in service delivery and meet the intended outcomes. Only providers who opt out because they are unwilling or unable to comply with requirements would no longer be able to provide waivered services.

[Begin delete] Table 7: Tiered standards for employment and day services for people with disabilities

Current employment and day services	Waivers affected	Tier 1 Changes to current services	Tier 2	Stakeholder involvement and other work
Day training and habilitation (DT&H)	BI, CADI, DD	Redefine DT&H services: • Strengthen focus on essential skill development for individual to experience community inclusion • As appropriate, move related functions to prevocational service, EES, EDS and ESS • Expand day training service to CADI and BI	Continue changes made to Tier 1 through a stakeholder process and: • Limit size of new DT&H sites • Establish criteria for new site locations to be considered integrated into their community taking geographic location into account • Develop a process that requires people to receive employment-related counseling , information and experiences prior to enrollment and while receiving services to ensure informed choice • Revise needs determination process to include greater emphasis on community inclusion and consider possibility of a moratorium on new DT&Hs	For the past two years, stakeholders have been involved in discussions about moving the employment functions from DT&H to the new employment services. Recently began meetings with DT&H stakeholders to discuss redefining DT&H to strengthen community inclusion. Continue work with stakeholders on: • Strengthening community inclusion focus, and Tier 2 standards

~~Supported employment~~	~~BI, CAC, CADI and DD~~	~~Separate supported employment into three new services:~~ ~~A. Employment exploration service (EES)~~ ~~B. Employment development service (EDS)~~ ~~C. Employment supports services (ESS)~~ ~~Define group and individual employment under ESS as follows:~~ ~~Group~~ ~~• Cluster of people working together in group, job sharing~~ ~~• Earning special minimum wages~~ ~~• Job is contracted through provider~~ ~~• Group size limited to six Individual~~ ~~• Position is distinct/not shared~~ ~~• Not isolated; working alongside other employees without disabilities~~ ~~• Paid minimum wage or higher~~ ~~• Can be contracted; direct hire preferred~~	~~Continue changes from Tier 1 and work with stakeholders to define further what would be considered group employment under Tier 2.~~ ~~Only employment that meets the definition of competitive employment will be paid at the individual employment ESS rate under Tier 2.~~ ~~Definition as follows:~~ ~~• Full-time, part-time or self-employment with or without supports~~ ~~• In the competitive labor force~~ ~~• On payroll of a competitive business~~ ~~• Pays at least minimum wage, but not less than customary wage and benefits paid to workers without a disability performing same or similar work~~	~~We have shared new employment service descriptions with stakeholders (including people with disabilities and families) over the past year.~~ ~~Continue meetings with stakeholders to work through possible Tier 2 standards and implementation strategies.~~ ~~Secure additional funding to increase rates for new services.~~
~~Prevocational service~~	~~BI and CADI~~	~~Changes to current prevocational service:~~ ~~• Move related functions to three new services: EES, EDS and ESS~~ ~~• Define criteria for center-based training and time limits~~ ~~• Expand to DD waiver.~~	~~Continue changes from Tier 1 and work with stakeholders to develop possible Tier 2 standards including, but not limited to, the following:~~ ~~• Work with stakeholders to develop a process that requires people to receive employment-related counseling, information and experiences prior to enrollment and while receiving service to ensure informed choice~~	~~We have shared new employment service descriptions with stakeholders (including people with disabilities and families) over the past year.~~ ~~Work with stakeholders to define and establish criteria for prevocational services and possible Tier 2 standards.~~

~~Structured day~~	~~BI~~	~~Changes to structured day service: Strengthen focus on essential skill development for individual to experience community inclusion~~	~~Continue changes made to Tier 1 and:~~ • ~~Limit size of new structured day service sites~~ • ~~New site locations must be considered fully integrated into their community, taking geographic location into account~~ • ~~Work with stakeholders to determine what is unique about this service or if it can be blended with the modified DT&H service~~	~~Begin work with stakeholders for the BI waiver to:~~ • ~~Strengthen community-inclusion experiences~~ • ~~Limit size and locations of new sites.~~
~~Adult day~~	~~BI, CAC, CADI and DD~~	~~People currently using adult day services, regardless of age, may continue to use adult day if they are assessed to need the service and if they choose it from other options. The case manager must ensure all people have information about the continuum of services available to them.~~	~~Future new authorizations for the service may only occur when:~~ ~~a. Following the informed choice process, which includes exploration of employment and day training and habilitation, the person did not choose employment or DT&H~~ ~~b. The service is age-appropriate~~ ~~c. The service meets outcomes desired by the person. Outcomes may include opportunities to: socialize with people chosen by the person; be integrated in his or her community or participate in activities in his or her community of choice. A person's desired and~~	

			~~anticipated outcomes and goal(s) must be documented in their community support plan. Services must be designed to meet both health and social needs, including their appropriateness in providing care and supervision. The decision is made through informed choice, with documentation of his or her informed choice.~~ ~~When appropriate, a goal to reduce isolation may be used in addition to the goals of the current definition for adult day service.~~ [End delete]	

[Begin add] Ongoing setting compliance [End add]

Minnesota will use several strategies at the provider, lead agency and individual recipient levels to assure ongoing compliance with the home and community-based settings requirements.

To assure [Begin delete] ~~initial and~~ [End delete] ongoing provider compliance with the requirements, MN DHS will use mechanisms that are already in place, to the extent possible, with some necessary revisions to accomplish the requirements of the CMS rule. The primary mechanisms are the provider-enrollment process and licensing.

New providers

MN DHS will design a process to evaluate new providers for compliance upon their request to enroll as a waiver provider. This process must balance the need for providers to have up-front information with CMS's requirement that providers be operational before they can be evaluated, with heightened scrutiny conducted as necessary. New providers will be asked to attest to their compliance with the HCBS settings requirements when they enroll with MN DHS. We will monitor compliance through licensing standards. If a new provider indicates that it meets one of the criteria for a setting that is presumed not to be home and community-based, we will require further evaluation. MN DHS will design a process for this evaluation that can be conducted as quickly as possible. This process must balance the need for providers to have up-front information with CMS' requirement that providers be operational before they can be evaluated. [Begin add] More information may be found in strategies 7-10. [End add]

In summary, the state will monitor HCBS rule compliance through multiple approaches and evaluate:

- Compliance at the setting and of the service provider through state staff and licensing entities
- A person's experience through an annual assessment administered by his or her case manager
- Roles and responsibilities of case managers and lead agencies for person-centered planning through lead agency reviews.

Strategy 7: State [Begin delete]~~Licensure~~[End delete] [begin add] licensure [end add] requirements

Setting requirements for the CMS rule are or will be included in state licensing standards (i.e., home and community-based service license, residential and day service setting licenses, foster care license, home care license) to allow licensors to assure [Begin delete] ~~initial and~~ [End delete] ongoing compliance for individual settings. [Begin delete] ~~Once all standards are established through statute, rule and waiver amendments, DHS or MDH will use the existing licensing process to conduct site- specific assessments.~~ [End delete]

We will use the results from each year of licensing reviews to inform the state if additional changes to the system are needed. [Begin delete] ~~We will use the~~ [End delete] [Begin add] We use the [End add] licensing-review process to [Begin add] conduct ongoing monitoring of providers, including desk audits (e.g. policy review) and site visits (e.g. observations, interviews). [End add] [Begin delete] ~~assure initial and ongoing compliance and as an opportunity to provide technical assistance to providers. DHS will prioritize settings that have been determined to need additional assistance. The following approaches may be used to assure initial and ongoing compliance:~~

- ~~Desk audits: policy review (DHS/MDH licensing)~~
- ~~Site visits: observation, interviews (DHS/County licensing)~~

~~Site visits and outreach:~~

~~All identified day and residential service settings are licensed by the state. The table below provides information on the licensing process and anticipated number of licensing visits in 2017-2019. The visits will provide outreach, communication and validation of setting compliance with the HCBS rule. As we add new provider standards, licensors will incorporate them into their ongoing compliance visits.~~

Table 9: Licensing process and number of anticipated visits in 2017-2019

Type of setting	Brief description of licensing process	Links to more licensing information	Number of licensing visits in 2017	Number of licensing visits in 2018	Number of licensing visits in 2019
Foster care / Supportive living services	The HCBS licensing-review process includes a review of the license-holder's compliance with applicable laws and rules. We review documentation for compliance, including a review of the service recipient and staff records, including orientation, training and background studies. The licensing review also includes a review of a variety of required administrative records, including policies and procedures. As indicated, the licensing review includes observation of services being provided to the service recipient in his or her home or community and inspection of licensed facilities.	Foster care licensing information Supportive living services licensing information	1,068	1,068	1,068

Type of setting	Brief description of licensing process	Links to more licensing information	Number of licensing visits in 2017	Number of licensing visits in 2018	Number of licensing visits in 2019
Customized living	The Minnesota Department of Health Home Care and Assisted Living Program (HCALP) conducts unannounced on-site licensing surveys at least once every three years to determine substantial compliance of comprehensive licensed home care providers. The surveys include: review of reporting of maltreatment; orientation to home care bill of rights; statement of home-care services; initial evaluation of clients and initiation of services; client review and monitoring; service plan implementation and changes; client complaint and investigation process; competency of unlicensed personnel; infection control; delegation to unlicensed personnel; assessment, monitoring and reassessment of clients; medication, treatment and therapy management.	Customized living service license information	355	355	355

Type of setting	Brief description of licensing process	Links to more licensing information	Number of licensing visits in 2017	Number of licensing visits in 2018	Number of licensing visits in 2019
Adult day	Unannounced on-site licensing reviews every other year. The process includes a review of the license-holder's compliance with applicable standards, including an inspection of the facility, observation of services being delivered and a document review. The document review includes participant records, personnel records including background studies and a variety of required administrative records	Adult day licensing information	84	85	86
DT&H,prevocational, structured day	The HCBS licensing-review process includes a review of the license-holder's compliance with applicable laws and rules. Documentation is reviewed for compliance, including a review of the service recipient and staff records, including orientation, training and background studies. The licensing review also includes a review of a variety of required administrative records, including policies and procedures. As indicated, the licensing review includes observation of services being provided to the service recipient in his or her home or community and inspection of licensed facilities.	DT&H licensing information	75	75	75 [End delete]

[Begin add] Strategy 8: [End add] Provider enrollment/revalidation [Begin add] requirements [End add]

All home and community-based services providers will be required to submit [Begin delete] ~~evidence~~ [End delete] [Begin add] a [End add] Home and Community-Based Settings Applicant Assurance Statement [Begin delete] ~~assurance of compliance with waiver requirements of meeting provider standards~~ [End delete] as part of new enrollment (new provider record), re-enrollment (inactive to active) or revalidation every 5 years (review of enrollment documents of currently active record) as a Medicaid provider.

[Begin add] Strategy 9: [End add] Assessing people's ongoing experience

The state [Begin add] worked [End add] [Begin delete] ~~is working~~ [End delete] with the University of Minnesota, Institute of Community Integration (ICI) to develop questions [Begin add] to measure a person's experience with HCBS. [End add] ICI [Begin delete] ~~is researching~~ [End delete] [Begin add] researched [End add] valid and reliable survey tools, ensuring questions are person-centered and are asked in a manner that allows us to capture measurable information. [Begin add] We based the tool on recommendations from the National Quality Forum report, Quality in Home and Community-Based Services to Support Community Living: Addressing Gaps in Performance Measurement. [End add]

For people in the MnCHOICES Support Plan application, the tool used to assess a person's experience is called the LTSS improvement tool. More information about the tool may be found in the Frequently asked questions about the new LTSS Improvement Tool.

Lead agencies assign a case manager to each person receiving HCBS services and will assess their experience annually. This assessment will evaluate whether a person's experience is consistent with the standards and expectations under the settings rule and validate the provider's attestation of compliance.

The case manager administers the [Begin add] person's experience assessment [End add] at the person's mid-year review of the support plan or annual reassessment. We are developing the [Begin add] person's experience assessment [End add] as part of the LTCC reassessment and as a component of the new electronic support plan [Begin delete] ~~expected to launch~~ [End delete] which [Begin add] launched [End add] in June 2017. Following training for lead agencies, we [Begin delete] ~~will begin to use~~ [End delete] [Begin add] began using [End add] the experience assessment in September 2017.

This is a new initiative designed to ensure sustainability in the collection of experiential data for all people who receive HCBS services. We expect the proportion of assessments received will increase over time (in [Begin add] 2018 and 2019 [End add] [Begin delete] ~~2017 and 2018~~ [End delete]) as case managers receive training and as more case managers begin to use the electronic support plan as part of their ongoing practice. We expect initial assessment data to be available in [Begin add] 2018 [End add] [Begin delete] ~~late 2017~~ [End delete].

[Begin delete] ~~We will compare the data with provider attestation submissions to validate provider compliance. The person's experience assessment will mirror the provider setting attestation and broader expectations under the rule. We will compare the answers by a unique setting number to identify~~

~~discrepancies. If the person's experience~~ [End delete] We will use the person's experience assessment [Begin add] to trigger remediation at an individual level when a person's experience [End add] differs from the requirements of the settings rule [Begin delete] ~~or the provider attestation~~. ~~the~~ [End delete] [Begin add] The [End add] case manager will discuss individual remediation options with the person and document the person's desired remediation action. We will provide education and information to address any broader concerns identified by the [Begin add] aggregate [End add] data [Begin add] from the person's experience assessment [End add]. We will analyze the data more frequently during the transition period to [Begin add] monitor system wide trends and identify areas where further [End add] remediation [Begin add] is needed [End add]. We plan to analyze data to determine how a person's experience changes over time. [Begin delete] ~~For example, we may examine whether a person becomes more satisfied with community integration over a period of time.~~ [End delete] By using the [Begin add] person's experience assessment, [End add] we can gather a person's feedback annually and compare data across HCBS programs and lead agencies (counties and tribal nations) in Minnesota. MN DHS will integrate this evaluation data with other data produced through the assessment process, service authorization/utilization and surveys. The goal is to demonstrate changes made at the individual, organizational and programmatic level and promote person-centered services and supports [Begin add]. [End add]

[Begin add] Strategy 10: [End add] Assessing lead agencies

Minnesota conducts reviews of all five Medicaid waiver programs and the Alternative Care program in each lead agency responsible for administering these programs (counties, tribal nations and health plans).

[Begin add] HCBS lead agency reviews of counties and tribal nations: [End add]

- Site visits include a review of participant case files, interviews and focus groups with staff and a review of lead agency data. MN DHS developed this review to monitor compliance with state and federal requirements, identify promising practices that improve the quality of service to HCBS participants, track local improvements and obtain feedback about MN DHS.
- The lead agency review evaluates components of person-centered planning and practices in HCBS programs. Under the Person-Centered, Informed Choice and Transition Protocol (PDF), lead agencies must provide people with increased choices and opportunities for community inclusion.
- We share performance measures and operational indicators during the HCBS lead agency review site visit.

We [Begin add] have [End add] [Begin delete] ~~will incorporate~~ [End delete] [Begin add] incorporated [End add] the elements needed to monitor and enforce compliance with the settings rule into this process. [Begin add] Protocols and review elements may be found on the MN DHS HCBS Lead Agency Review website.

Managed care audits: [End add]

Managed care organizations (MCOs) conduct annual audits of all of their enrollees' care plans, including people on the Elderly Waiver (EW), through the care plan audit protocol. MCOs have incorporated requirements of the Person-Centered, Informed Choice and Transition Protocol into the audit protocol. At the completion of each annual audit, MCOs report their findings to MN DHS.

[Begin add] Strategy 11: Assessing service gaps [End add]

As required by statute, MN DHS conducts a gaps analysis study every two years to gather data from lead agencies about the capacity and gaps in long-term services and supports and housing to support older adults, people with disabilities, children and youth with mental health conditions and adults living with mental illnesses in Minnesota.

We will use the existing national core indicator process to capture quality-of-life and community-engagement data to inform quality-assurance activities and quality-improvement priorities across the system.

[Begin add] VII. Milestones

Milestones are the key steps states are taking or will take to implement their statewide transition plans to comply with the home and community-based setting requirements. To assist states in managing milestone timelines, CMS created an online tracking system. When we complete a milestone, we are required to submit evidence and update the status of the milestone in the system.

Systemic-assessment and remediation milestones

Milestone	Description	Proposed end date
Completion of systemic assessment 100 percent complete	• Compare state standards to HCBS standards • Identify gaps: determine whether or not state standards comply, do not comply, partially comply or are silent • Identify remedial actions to address gaps	Completed September 2016

Milestone	Description	Proposed end date
Complete modifying rules and regulations, including provider manuals, inspection manuals, procedures, laws, qualification criteria, etc.	• Revise state licensing standards • Amend policy manuals, provide training and technical assistance • Implement new HCBS licensing standards/housing with services contract requirements • Enforce new HCBS licensing standards/housing with services contract requirements	Completed January 2018
Complete systemic remediation: 100 percent complete	• Tiered standards become effective through state regulatory changes and approved waiver amendments • Tiered standards are implemented	October 2019

Site-specific assessment and remediation milestones

Milestone	Description	Proposed end date
Completion of site-specific assessment	• Design provider-assessment tool to assess site-specific compliance • Teach providers how to complete provider attestation • Launch provider attestation • Analyze data to identify settings that reported compliance, require site-specific transition plan, presumed not HCBS, opting out or did not respond	Completed April 2018

Milestone	Description	Proposed end date
Completion of site-specific validation and remediation of 100 percent of residential and non-residential settings	• Review "desk audit" supporting evidence submitted by provider to validate provider self-report through attestation • Implement "compliance plans" for settings that are noncompliant based on desk audit to bring them into compliance	October 2018
Incorporate results of settings analysis into final version of the STP and release for public comment	N/A	June 2019
Submit final STP to CMS	N/A	August 2019
Identification of settings that will not remain in the HCBS system	Identify settings that are unable to take the necessary steps to comply with HCBS requirements	March 2019

Heightened-scrutiny milestones

Milestone	Description	Proposed end date
Identification of settings that overcome the presumption and will be submitted for heightened scrutiny and notification to provider	Complete gathering information and evidence on settings requiring heightened scrutiny that the state will present to CMS. Information and evidence will be gathered from the provider attestation, public comment, onsite assessments, provider-submitted documentation and other types of evidence as needed	March 2020
Incorporate list of settings requiring heightened scrutiny into the final version of STP	Organize information and evidence referenced above into the final version of STP and release for public comment	June 2020
Submit STP with heightened scrutiny information to CMS for review	Determine which settings will be submitted for heightened scrutiny, notify public of these settings (public comment) and submit to CMS	October 2020

Relocation-of-people milestones

Milestone	Description	Proposed end date
Begin notification process related to settings that are not in compliance with the HCBS setting requirements	Notify people receiving services, guardians/legal representatives, providers, lead agencies and any other responsible parties identified of settings that are not in compliance with HCBS rule requirements and that relocation or alternate funding sources need to be considered	October 2020

Milestone	Description	Proposed end date
Complete notification process related to settings that are not in compliance with the HCBS setting requirements	Notify people who receive services, guardians/legal representatives, providers, lead agencies and any other responsible parties about settings that are not in compliance with HCBS rule requirements and that relocation or alternate funding sources need to be considered	March 2021
Begin beneficiary relocation or alternate funding across all providers	Implement transition protocol	October 2021
Complete beneficiary relocation or alternate funding across all providers	Implement transition protocol	March 2022

Ongoing-compliance milestones

Milestone	Description	Proposed end date
Conduct licensing reviews to validate ongoing HCBS compliance	DHS added HCBS-specific licensing requirements to licensed residential and day services in 2017. We also added HCBS-specific requirements to housing with services statute. Implementation began in January 2018.	Ongoing
Conduct enrollment/revalidation of newly enrolling waiver providers using HCBS-specific validation processes.	DHS developed and required HCBS-specific assurance statements and web-based training modules for any newly enrolling HCBS waiver provider as of September 2018.	Ongoing
Launch person's experience assessment	N/A	November 2017

Milestone	Description	Proposed end date
Analyze data about how a person's experience changes and follow trends over time	N/A	Begin March 2019 and ongoing
Assess lead agency compliance with HCBS setting requirements	• Conduct reviews of all five Medicaid waiver programs and the Alternative Care program in each lead agency responsible for administering these programs. • Monitor compliance with HCBS setting requirements (began in July, 2016) and identify promising practices to improve quality of services to HCBS participants.	Ongoing [End add]

[Begin delete] ~~Systemic assessment and remediation milestones~~	~~End date~~	~~Status/notes~~
~~Compare state standards to HCBS standards~~	~~1/1/16~~	~~100% complete~~
~~Identify gaps: Determine whether or not state standards comply, do not comply, partially comply or are silent~~	~~4/1/16~~	~~100% complete~~
~~Identify remedial actions to address gaps~~	~~8/1/16~~	~~100% complete~~
~~Complete systemic assessment~~	~~9/1/16~~	~~100% complete~~
~~Revise state licensing standards~~	~~7/1/17~~	~~75% complete: legislative policy proposals drafted~~

[Begin delete] Systemic assessment and remediation milestones	End date	Status/notes
Amend policy manuals, provide training and technical assistance	9/1/17	Not started
Implement new licensing standards	11/1/17	Not started

Site-specific assessment and remediation milestones	End date	Status/notes
Design provider site-specific assessment tool (provider attestation) to assess compliance	2/1/17	75% complete: form created, working with IT
Develop provider expectation guide and other tools to support provider with completion of provider attestation	2/1/17	50% complete: guide development in progress
Instruct providers on how to complete provider attestation	3/1/17	Not started
Launch provider attestation	4/1/17	Not started
Analyze data to identify settings that have reported 100% compliance, require a site-specific transition plan, are opting out or did not respond.	10/1/17	Not started
Review supporting evidence submitted by provider to validate provider attestation response.	11/1/17	Not started
Develop questions for person's experience assessment that mirror provider attestation	8/1/16	100% complete

Site specific assessment and remediation milestones	End date	Status/notes
Train case managers on how to conduct the person's experience assessment and expectations for remediating discrepancies	3/1/17	Not started
Launch person's experience assessment	6/1/17	Not started
Analyze provider experience assessment data to validate compliance and track remediation	6/31/17	Not started
Develop a site-specific compliance plan template	6/1/17	25% complete
Conduct outreach activities to support providers	12/31/17	Not started: in planning phase for provider outreach
Track provider progress toward compliance goals and assure site-specific compliance of all settings	6/1/18	Not started
Develop a framework of tiered standards for designated new service settings	12/31/16	50% complete: working with stakeholders to finalize tiered standards
Propose legislation to implement tiered standards framework for customized living services, day training and habilitation services, new employment services and adult day services	7/1/18	25% complete: legislative proposals drafted for employment services
Submit waiver plan amendments to redefine existing services, tiered standards or add new services that do not add costs	12/31/17	Not started
Submit waiver plan amendment to redefine existing services, tiered standards or add new services that add costs	9/1/18	Not started

~~Site-specific assessment and remediation milestones~~	~~End date~~	~~Status/notes~~
~~Implement waiver amendment changes~~	~~3/1/2019~~	~~Not started~~
~~Submit second set of waiver plan amendments to continue to redefine existing services, tiered standards or add new services that add costs~~	~~9/1/18~~	~~Not started~~

~~Relocation of people milestones~~	~~End date~~	~~Status/notes~~
~~Implement transition protocol to give people the opportunity to make informed choices of new services/settings~~	~~03/31/18~~	~~Not started~~
~~Provide technical assistance to providers and lead agencies regarding relocation of individuals~~	~~03/16/19~~	~~Not started~~
~~Provide case-management reassessment and transition assistance to people needing relocation of services and/or settings~~	~~03/16/19~~	~~Not started~~

~~Ongoing compliance milestones~~	~~End date~~	~~Status/notes~~
~~Implement transition protocol to give people the opportunity to make informed choices of new services/settings~~	~~03/31/18~~	~~Not started~~
~~Provide technical assistance to providers and lead agencies regarding relocation of individuals~~	~~03/16/19~~	~~Not started~~
~~Provide case-management reassessment and transition assistance to people needing relocation of services and/or settings~~	~~03/16/19~~	~~Not started~~

~~Ongoing compliance milestones~~	~~End date~~	~~Status/notes~~
~~Identify the type of system(s) that must be modified/created for monitoring ongoing compliance~~	~~4/1/16~~	~~100% complete~~
~~Identify gaps in current monitoring systems and need for new systems~~	~~8/1/16~~	~~100% complete~~
~~Modify current monitoring systems, create new systems and train~~	~~12/1/17~~	~~50% complete~~ ~~• Legislative proposals to revise licensing standards drafted~~ ~~• Individual experience assessment questions developed, system changes in development~~ ~~• Revalidation protocols in development~~ ~~Person-centered planning protocols are developed for lead agency reviews~~
~~Implement ongoing monitoring systems~~	~~1/1/18~~	~~Not started~~ [End delete]

VIII. Appendices

Appendix A – HCBS advisory group – Organizations represented

- ARRM
- Care Providers of Minnesota
- Dakota County
- HIV Housing Coalition/Coalition for Choice in Housing/Clare Housing
- Leading Age Minnesota
- Managed Care Organizations
- Mental Health Minnesota
- Minnesota Association of County Social Service Administrators
- Minnesota Organization for Habilitation and Rehabilitation
- Minnesota State Council on Disability
- NAMI Minnesota
- Office of Ombudsman for Long-term Care
- Office of Ombudsman for Mental Health and Developmental Disabilities
- The Arc Minnesota
- The Minnesota Governor's Council on Developmental Disabilities
- Touchstone Mental Health, Minnesota Association of Community Mental Health Programs
- University of Minnesota & Minnesota Employment First Coalition
- Washington County

Appendix B: Public comments summary on Minnesota's transition plan

[Begin add] Public comment summaries may be found on the Transition plan for home and community based settings website:

- 2016 summary of public comments (PDF) (pages 52-81)
- 2018 summary of public comments: To be added after public comment period [End add]