

# **Transition Plan Implementation for Home and Community-Based Settings**

Aging and Adult Services and  
Disability Services divisions  
January 2016



Minnesota Department of **Human Services**

## **Legislative Report**

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## **I. Executive summary**

### **A. Home and community-based rule overview**

On Jan. 16, 2014, the Centers for Medicare & Medicaid Services (CMS) issued new regulations that govern home and community-based services (HCBS) for all states. The CMS HCBS rule had an effective date of March 17, 2014. As required by CMS, the state must submit for approval a transition plan to serve as a blueprint for the Minnesota Department of Human Services (DHS) to comply with CMS' regulations.

The purpose of the rule is to maximize opportunities for people who receive HCBS. The HCBS rule is not about taking away services or closing down programs. It raises expectations around what is possible for older adults and people with disabilities. It requires assurances that all people have information and experiences with which to make informed decisions.

The rule requires:

- Person-centered service planning
- Conflict-free case management
- Settings to have characteristics that are home and community-based.

Minnesota has until March 17, 2019, to transition into compliance for meeting characteristics of settings that are home and community-based for existing programs. New programs, such as community first services and supports (CFSS), which will replace personal care assistance (PCA), must meet HCBS settings requirements at the time of implementation. The settings requirements apply to both residential and non-residential settings for people who receive Medicaid funding for HCBS.

For Minnesota, the CMS rule applies to the following home and community-based service waivers and programs:

- Alternative Care (AC) Program, 1115 demonstration waiver
- Brain Injury (BI) Waiver
- Community Alternative Care (CAC) Waiver
- Community Access for Disability Inclusion (CADI) Waiver
- Developmental Disabilities (DD) Waiver
- Elderly Waiver (EW)

CMS' home and community-based settings regulation requirements (42 CFR §441.301(c)(4)/441.710(a)(1)/441.530(a)(1)) establish a definition of home and community-based settings based on the person's experience and outcomes, in addition to a setting's location, geography or physical characteristics.

DHS is committed to working with our partners, including lead agencies (counties, tribes and health plans) and providers, as well as people who receive services. Together, we will identify and plan for needed changes to ensure people who receive waiver services have a quality home

and community experience. We acknowledge that various changes need to take place within the HCBS system to meet the federal rule requirements.

DHS will focus on refining service standards, policy and practice and, if needed, redefine service functions to meet the new requirements. We have a strong network of partners who are willing to make the necessary changes to improve experiences for people and comply with the federal rule requirements.

We plan to provide information and technical assistance to lead agencies and case managers on implementation of the rule. We will work with providers who are able to make changes and support them to achieve compliance with the rule. Providers have indicated a need for additional funding and resources to meet the rule requirements.

We also will:

- Explore a tiered-standards option to maintain current settings that meet basic standards
- Create a higher standard for new settings/services
- Encourage the development of alternative approaches that support inclusive community models.

### B. 2015 transition plan activities

Minnesota is using a statewide transition plan as a vehicle to move existing home and community-based settings into compliance with the federal rule by March 17, 2019. During 2015, we worked on three main areas in the transition plan:

- Regulatory review
- Provider self-assessment, from the provider's perspective
- Stakeholder engagement.

DHS completed a regulatory review and administered a provider self-assessment survey to assess the state's current level of compliance with HCBS settings criteria.

The regulatory review assessed the significant differences between state regulations and federal rule. This included review of state statute, state rule and Minnesota's federally approved waiver plans. The regulatory review identified that some waiver services will need regulatory and/or practice changes to comply with the rule. We will propose the legislative changes needed starting with the 2017 legislative session. By waiting until the 2017 session, we will have enough time to engage with stakeholders and address concerns with the proposed changes.

The regulatory review showed differences in services for older adults who receive waiver services compared with waiver services for people with disabilities. Older adults who need assistance have a lifetime of experiences to draw from when making life choices, whereas people with disabilities may have limited experiences and options with which to base decisions on or to inform their choices. In April 2015, DHS launched a provider self-assessment survey. The survey provided valuable information on the extent and type of training and technical assistance needed to support providers to comply with the rule. It also gave us information that will inform the development of new standards.

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In 2015, we also communicated with stakeholders about the intent of the HCBS rule and transition plan, and provided technical assistance to providers completing the self-assessment survey. We reached out to people who receive services and other interested stakeholders through:

- Community presentations
- Conferences
- Webinars
- Provider news and correspondence
- HCBS webpage updates
- Email notices.

We reconvened work that will continue into 2016 with the HCBS advisory group to collaborate on transition plan activities and goals.

## **II. Legislation**

The 2015 Minnesota Legislature required DHS to submit an annual report beginning in 2016. The law requires DHS to report on the status of the implementation of the community-based settings transition plan for the HCBS waivers.

Specifically, 2015 Laws of Minnesota, Chapter 78, Article 6, Section 30 states:

“Upon federal approval, the department of human services must take initial steps to come into compliance with the home and community-based settings transition plan for the home and community-based services waiver authorized under sections 256B.0915, 256B.092, and 256B.49. By January 15, 2016, and annually during the transition period ending by March 17, 2019, the department of human services must report on the status of the implementation to the chairs and ranking minority members of the house of representatives and senate policy and finance committees with jurisdiction over health and human services for seniors and people with disabilities.”



### **III. Introduction**

DHS submits this report to the chairs and ranking minority members of the policy and finance committees, which have jurisdiction over health and human services for older adults and people with disabilities pursuant to 2015 Laws of Minnesota, Chapter 78, Article 6, Section 30.

The Aging and Adult Services and Disability Services divisions at the Department of Human Services (DHS) prepared this report. It includes updates on the Centers for Medicare & Medicaid Services' (CMS) review of the transition plan and 2015 implementation activities within the transition plan. It includes:

- Regulatory review
- Provider self-assessment
- Stakeholder engagement.

On Jan. 16, 2014, CMS issued a final home and community-based services (HCBS) rule effective March 17, 2014. The rule requires person-centered planning, conflict-free case management and settings to have characteristics that are home and community based. The rule requires states to review and evaluate settings that receive funds through HCBS waivers. All HCBS settings must comply with the federal requirements that ensure people:

- Have opportunities to participate in community life
- Integrate in and have full access to their communities
- Work in integrated environments.

In Minnesota, the rule affects all HCBS waivers and programs, which are:

- Alternative Care (AC) Program, 1115 demonstration waiver
- Brain Injury (BI) Waiver
- Community Alternative Care (CAC) Waiver
- Community Access for Disability Inclusion (CADI) Waiver
- Developmental Disabilities (DD) Waiver
- Elderly Waiver (EW).

The purpose of the rule is to maximize the opportunities for people who receive HCBS. The HCBS rule is not about taking away services or closing down programs. The rule raises expectations around what is possible for older adults and people with disabilities. It requires that all people have information and experiences with which to make informed decisions.

DHS is committed to working with our partners, including lead agencies (counties, tribes and health plans) and providers, as well as people who receive services, to identify and plan for the changes needed to ensure people who receive waiver services have a quality home and community experience. We acknowledge that various changes need to take place within the HCBS system to meet the federal requirements.

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DHS will focus on refining service standards, policy and practice and, if needed, redefine service functions to meet the new requirements. We have a strong network of partners willing to make the necessary changes to improve experiences for people and comply with the rule's requirements.

We will provide information and technical assistance to lead agencies and case managers on implementation of the rule. We plan to work with providers who are able to make changes and then support them to achieve compliance with the rule. Providers have indicated a need for additional funding and resources to meet the rule requirements.

We also are exploring a tiered-standards option to maintain current settings that meet minimal standards and creating a higher standard for new settings/services. This will encourage development of alternative approaches that support inclusive community models.

Implementation of Minnesota's HCBS transition plan to comply with the home and community-based setting requirements in the rule will help Minnesota promote the goals expressed in the [Olmstead Plan](#).

The values expressed in the rule and the Olmstead Plan have similarities that will lead to comparable outcomes, including:

- Person-centered planning
- Choice of where people live and work
- Integrating people with disabilities into the community.

The HCBS rule allows for a five-year transition plan for existing programs to come into compliance with its home and community-based setting requirements. On Jan. 8, 2015, DHS submitted the [Minnesota Statewide Transition Plan \(PDF\)](#) to CMS. The state developed the transition plan for the HCBS waivers in order to comply with the rule by March 17, 2019. The rule also affects the community first services and supports (CFSS) option, which will replace personal care assistance (PCA). CFSS will comply with the rule upon implementation.

## **IV. Overview of the home and community-based services final rule**

The two areas of the CMS rule that have the most impact on Minnesota are:

- Person-centered planning requirements
- Home and community-based setting requirements that include both residential and non-residential settings.

### **A. Person-centered planning requirements**

The rule requires that the person-centered planning process reflect what is important to the person who receives HCBS services. It must address personal preferences and ensure health and welfare. The rule also establishes requirements for conflict-free case management.

DHS, consistent with Minnesota's Olmstead plan, will improve person-centered practices and the quality of services for people who receive HCBS services.

### **B. Home and community-based setting requirements**

The HCBS setting requirements for new and existing waiver programs includes Minnesota's waiver programs. Those services have to comply with the rule by March 17, 2019. The home and community-based setting requirements in the rule contain general requirements that apply to all settings where people receive HCBS services.

The requirements focus on the quality of a person's experiences. They maximize opportunities for people to have access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate to meet their needs.

According to the rule, a home and community-based setting:

- Ensures a person's right to privacy, dignity, respect and freedom from coercion and restraint
- Ensures the person receives services in the community to the same degree of access as people who do not receive Medicaid HCBS services
- Facilitates individual choice about services and supports, and who provides them
- Is integrated in and supports access to the greater community
- Is selected by the person from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. (The person-centered plans must document the option available and choices made by the person)
- Optimizes individual initiative, autonomy and independence in making life choices
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.

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The rule is clear that home and community-based settings do not include:

- Hospitals
- Institutions for mental disease (IMD)
- Intermediate care facilities for people with developmental disabilities (ICF/DD)
- Nursing facilities.

The rule also identifies settings CMS will presume are not home and community-based. States can choose to submit evidence to CMS to demonstrate how the setting is, in fact, home and community-based. The information submitted will be subject to a heightened scrutiny review by CMS.

The settings identified by CMS as settings that are presumed not to be home and community-based include:

- Settings in a publicly or privately owned facility that provide inpatient treatment
- Settings on the grounds of, or adjacent to, a public institution
- Settings with the effect of isolating people from the broader community of people who do not receive Medicaid HCBS services.

CMS issued additional guidance to states on settings that have the effect of isolating people who receive HCBS services from the broader community.<sup>1</sup> The settings identified as having the effects of isolating will be subject to further DHS assessment and CMS' heightened scrutiny review.

CMS has identified the following settings as those that typically have the effect of isolating people who receive HCBS services from the broader community:

- Farmsteads or disability-specific farm communities
- Gated/secured "communities" for people with disabilities
- Residential schools
- Multiple settings, co-located and operationally related, which congregate a large number of people with disabilities together and provide for significant shared programming and staff, such that people's ability to interact with the broader community is limited.

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<sup>1</sup> <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/settings-that-isolate.pdf>

## **Residential settings**

The rule includes additional requirements for residential services provided in a provider-owned or controlled setting. Minnesota waiver services that are provider-owned or controlled residential settings include, but may not be limited, to:

- Adult and child waiver foster care
- Customized living (often referred to as assisted living for older adults)
- Supported living services
- Residential care waiver services.\*

\* NOTE: DHS is ending the residential care waiver service by June 30, 2018, due to inappropriate use of the service and lack of health, safety and rights protections. This will affect approximately 192 people in the state. DHS will assess alternate waiver services and work with lead agencies through the transition period to meet the needs of the people for who the change impacts.

The rule requires all units or dwellings to have a lease, or similar legally enforceable agreement. That lease, or legal document, must include the same responsibilities and protections from eviction as all tenants under landlord-tenant law of state, county, city or other designated entity. If tenant laws do not apply, the written agreement must address eviction processes and appeals comparable to those provided under the jurisdiction's landlord-tenant law.

Other requirements include:

- Each person has privacy in their sleeping or living unit
- Units have lockable entrance doors, with the person and appropriate staff having keys to doors, as needed
- People who share units have a choice of roommate(s)
- People have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- People have the freedom and support to control their schedules and activities
- People have access to food at any time
- People may have visitors at any time
- The setting physically is accessible to the person.

The rule allows modifications to the above requirements if:

- A person's health and safety is at risk
- The modifications are documented in the person's person-centered plan.

In some of these settings, the unit described in these requirements may be the person's bedroom. In other settings, the unit may be the person's apartment or other private living space.

### **Non-residential settings**

The rule also applies to day services provided through home and community-based waiver programs. In Minnesota, these non-residential services include:

- Adult day services
- Day training and habilitation
- Pre-vocational services
- Structured day services.

## **V. 2015 Minnesota Statewide Transition Plan activities**

### **A. State assessment**

During 2015, DHS completed a state assessment comprised of a regulatory review and provider self-assessment survey. The state assessment provided information about Minnesota's current policy and provider practices as they compare with the federal requirements.

In 2016, we will work with stakeholders to develop and initiate strategies to address identified gaps in the state assessment.

### **Regulatory review**

DHS completed a regulatory review that compared the HCBS-required qualities under the rule to waiver services subject to the HCBS-settings requirements. This included a comparison of state statute, state rule and Minnesota's federally approved waiver plans. We reviewed state regulations including:

- Laws that govern assessment and support planning
- Laws that mandate safeguards for vulnerable adults and children
- Landlord-tenant law
- Service descriptions and setting licensure.

The results of the regulatory review indicated that state regulations will require some changes to align with federal requirements. The regulatory review determined, by waiver service, whether a regulatory and/or policy change, practice change or no change is required. DHS will propose needed regulatory changes beginning in the 2017 and 2018 legislative sessions. Practice changes may include training, policy manual changes, new tools and/or protocols. A multi-year approach will allow us time to work with stakeholders on changes to:

- Statutes
- Waiver plans
- Manuals or policies.

The analysis of the regulatory review show differences in services for older adults who receive waiver services as compared with services for people with disabilities who receive waiver services. Older adults who need assistance have a lifetime of experiences to draw from when making life choices, whereas people with disabilities may have limited experiences to base their decisions on or to inform their choices.

Go to [Appendix B – Regulatory review, Table 1 and Table 2](#) for more information on the regulatory review information.

### **Provider self-assessment survey**

DHS developed a survey for waiver providers to self-report current practice in relation to the HCBS rule requirements. We established the survey questions largely based on CMS guidance

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and analysis of the rule. Providers reported to us that they found the survey to be a helpful tool to assess current practice and plan for future compliance.

The survey asked about the proximity of settings to institutions and had questions about how settings support people's choices, rights, autonomy, integration in the community, employment and physical accessibility.

The self-assessment survey helped us understand the extent and type of information, technical assistance and support providers need as they transition to meet the intent of the rule. The survey also helped us to identify, by setting type, areas of the rule where more providers indicated changes they would need to transition their current practice. DHS will use the survey results to assess all of the areas in which providers need information and support. We found it promising that providers reported they are willing to make the changes necessary to comply with the rule.

Approximately, 6,544 provider settings received the self-assessment survey for the following services:

### **Residential:**

- Customized living
- Residential care
- Adult and child foster care
- Supported living services.

### **Non-residential:**

- Adult day
- Structured day services
- Day training and habilitation
- Prevocational services.

We launched the provider self-assessment survey in April 2015, and continued it through May 2015. We completed the following activities:

- Reopened the self-assessment survey, due to of low response, through Sept. 4, 2015
- Delivered education and training through webinars and videoconferences before and during the provider-survey period
- Collaborated with trade associations to increase response to survey
- Provided additional training and assistance to providers
- Updated the [HCBS transition webpage](#) with a frequently asked questions document.

## **B. Settings presumed not HCBS**

CMS has identified settings that are presumed not to be HCBS. The settings identified, based on location, include:

- Settings in a publicly or privately owned facility that provide inpatient treatment
- Settings on the grounds of or adjacent to a public institution.



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At the time of this report, we are developing a process to identify these settings. We are analyzing and verifying provider-survey responses to determine which providers indicated their setting location meets the presumed-not-HCBS category. We also use geo-mapping software to identify settings that, due to their location proximity to an inpatient treatment or public institution, will need further evaluation.

There are also settings identified by CMS as settings that are presumed not to be home and community-based described as:

- Settings with the effect of isolating people from the broader community of people who do not receive Medicaid HCBS.

DHS, in collaboration with the HCBS advisory group, began developing criteria and characteristics for settings that have the [effect of isolating people based on the CMS guidance \(PDF\)](#).

We will evaluate each setting that has met the presumed-not-to-be-HCBS criteria to determine if there is strong evidence that the setting does not have the effect of isolating people. We will not exclude a residential or non-residential setting solely based on its location or the fact that it meets the initial criteria for having the effect of isolating. If strong evidence exists that the setting has the effect of isolating, but there is evidence the provider has alternative strategies to assure it meets the intent of the rule:

1. DHS will submit to CMS for additional review
2. CMS will review the setting under a heightened scrutiny process
3. CMS will then make the final determination if a setting is home and community-based.

If CMS decides a setting does not meet the home and community based criteria, DHS will work with the provider to make the changes necessary if possible, or we will work with the people who receive services to find an alternative service/setting option.

### C. Communication and stakeholder engagement

During 2015, we communicated with stakeholders and other interested people about the intent of the HCBS rule and transition plan. We did outreach through:

- Community presentations
- Professional conference presentations
- Webinars
- Provider correspondences
- A newly developed [YouTube video](#)
- A dedicated [HCBS transition plan webpage](#)
- An email box ([hcbs.settings@state.mn.us](mailto:hcbs.settings@state.mn.us)).

In September 2015, we reconvened the HCBS advisory group. It comprises lead agencies, managed care organizations, provider organizations and advocacy organizations. See [Appendix](#)

[A – HCBS advisory group members](#) for a list of members and organizations that participate. The advisory group meets monthly, and members not only represent their organizations, but also older adults and people with disabilities. The advisory group works on recommendations for DHS, which include:

- Policy expectations
- Practice considerations
- Setting and service standards to align with the rule
- How to engage stakeholders.

During early 2016, DHS will discuss the rule and transition plan activities with self-advocates and family members by attending existing self-advocate meetings across the state. We also will attend conferences geared toward families and self-advocates, and work with a variety of advocacy organizations to reach people with a variety of types of disabilities.

## **VI. Status of statewide transition plan and 2016-2018 activities**

### **A. Plan status**

On Jan. 8, 2015, DHS submitted the [Minnesota Statewide Transition Plan \(PDF\)](#) to CMS. In reply, CMS issued an [Oct. 8, 2015, correspondence \(PDF\)](#) that requests supplemental information and revisions to the proposed plan. We anticipated we would need to make revisions to the plan because we submitted it to CMS before the state assessment and before we had continuing CMS guidance. Information received from the state assessment will help us make modifications to the transition plan. CMS specifically asked for more information about:

- Assessment processes and outcomes
- Ongoing monitoring
- Relocation of people
- Remedial actions
- Settings identification
- The heightened scrutiny process
- The public comment process.

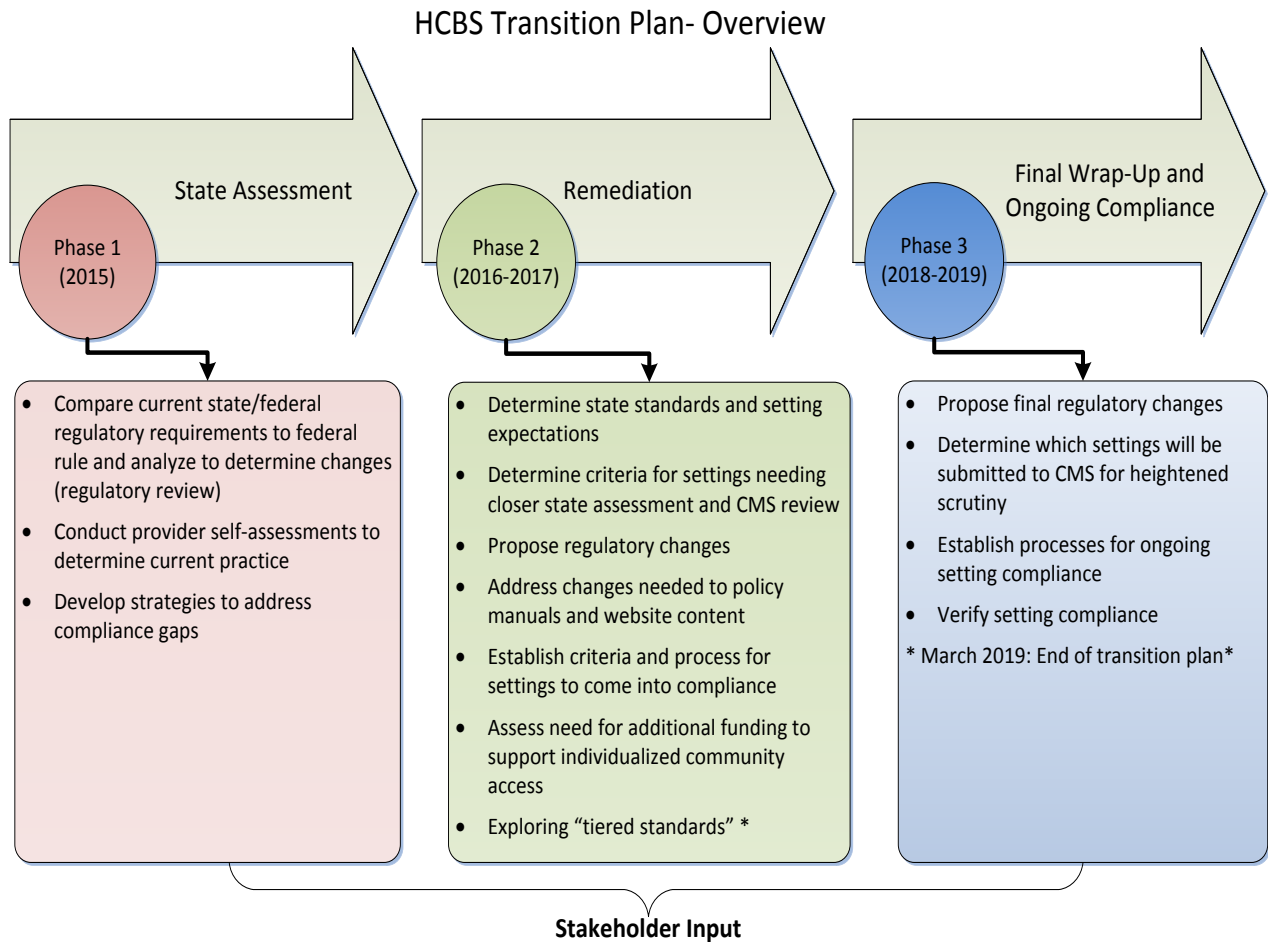
At the time of this report, we are revising the statewide transition plan to respond to the CMS review and will resubmit the plan to CMS before Feb. 24, 2016. We will publish the statewide transition plan revisions for a 30-day public-comment period to allow for public input before we submit to CMS.

While the statewide transition plan is the overarching plan to transition Minnesota toward federal compliance, federal guidelines also require us to include the transition plan information in each of the five waiver-specific renewals or amendments.

### **B. Tiered standards**

We are looking at a tiered-standards option to maintain current settings that meet basic minimal standards and create a higher standard for new settings/services, which encourage development of alternative approaches that support inclusive community models.

C. 2016-2018 activities



## VII. Appendix

### Appendix A: Members of the HCBS advisory group

Name	Organization
<b>Ben Ashley-Wurtmann</b>	Mental Health Association of Minnesota
<b>Sean Burke</b>	Minnesota Disability Law Center
<b>Kay Dickison</b>	Dakota County
<b>Alicia Donahue</b>	Office of Ombudsman for Mental Health and Developmental Disabilities
<b>Steve Larson</b>	Arc of Minnesota
<b>Maureen Melgaard-Schneider</b>	Prime West Health
<b>Joyce McIntosh</b>	Minnesota Adult Day Services Association
<b>Lynne Megan</b>	The Minnesota Governor's Council on Developmental Disabilities
<b>Natasha M Merz</b>	Office of Ombudsman for Long-Term Care
<b>Kelly Nye-Lengermen</b>	Minnesota Employment First Coalition
<b>Chuck Peterson</b>	HIV Housing Coalition
<b>Danielle Salisbury</b>	Leading Age, Minnesota
<b>Lynn Sando</b>	National Alliance on Mental Illness (NAMI), Minnesota
<b>Jill Schewe</b>	Care Providers
<b>Lori Schluttenhofer</b>	Minnesota Organization for Habilitation and Rehabilitation
<b>Deb Sjostrom</b>	Minnesota Association of County Social Services Administrators (MACSSA)
<b>Sarah Tripple</b>	Washington County
<b>Barb Turner</b>	Association of Residential Resources in Minnesota (ARRM)
<b>Joan Willshire</b>	Minnesota State Council on Disability
<b>Michelle Wincell O'Leary</b>	Touchstone Mental Health – Minnesota Association of Community Mental Health Programs (MACMHP)

## Appendix B - Regulatory review

DHS determined the following criteria to describe the changes needed for compliance with each HCBS-setting requirement:

- **No change:** Existing state standards and policies fully address the federal setting requirements.
- **Practice change:** Existing state standards address federal setting requirements; however, practice modifications are required. Practice changes may include: training, clarifying policy manuals, modifying state support planning tools and protocols
- **Regulatory change:** Existing state standards or policy a) do not address federal setting requirements b) conflict with federal setting requirements or c) need to support federal setting requirements.

**Table 1: Regulatory changes needed for provider controlled residential settings to comply with federal rule**

HCBS qualities	Adult and child foster care (BI, CAC, CADI waivers)	Foster care (EW waiver)	Customized living (BI, CADI waivers)	Customized living (EW waiver)	Supported living services (DD waiver)
Supports full access of people to the greater community including to: <ul style="list-style-type: none"> <li>• Seek employment opportunities and work in competitive integrated settings.</li> </ul>	Practice change	Not applicable	No change	Not applicable	Practice change
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Engagement in community life.</li> </ul>	Regulatory and/or practice change	Practice change	Regulatory and/or practice change	Practice change	Regulatory and/or practice changes
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Control of personal resources.</li> </ul>	No change	No change	No change	No change	No change
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Opportunity to receive services in the community.</li> </ul>	Practice change	No change	Practice change	No change	Practice change

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HCBS qualities	Adult and child foster care (BI, CAC, CADI waivers)	Foster care (EW waiver)	Customized living (BI, CADI waivers)	Customized living (EW waiver)	Supported living services (DD waiver)
A person has rights of privacy, dignity and respect, and freedom from coercion and restraint. The setting optimizes, but does not regiment, a person's initiative, autonomy and independence in making live choices, including but not limited to daily activities, physical environment and with whom to interact.	Regulatory and/or practice change	Practice change	Regulatory and/or practice change	No change	Regulatory and/or practice change
A person chooses services, supports and provider.	No change	No change	No change	No change	No change
People have privacy in their sleeping or living unit.	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change	No change	Regulatory and/or practice change
People have the freedom and support to control their own schedules and activities, and have access to food at any time.	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change	Practice change	Regulatory and/or practice change
People have visitors of their choosing at any time.	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change	Practice change	Regulatory and/or practice change
Setting is physically accessible, when needed, for the person.	No change	No change	No change	No change	No change
A person may own, rent or occupy a dwelling under a legally enforceable agreement. The person has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord-tenant law of the state,	Regulatory and/or practice change	Regulatory and/or	Regulatory and/or	No change	Regulatory and/or

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HCBS qualities	Adult and child foster care (BI, CAC, CADI waivers)	Foster care (EW waiver)	Customized living (BI, CADI waivers)	Customized living (EW waiver)	Supported living services (DD waiver)
county, city or other designated entity. The state must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord-tenant law.		Practice change	Practice change		Practice change

**Table 2: Regulatory changes needed to comply with HCBS qualities and provider controlled non-residential waiver services**

HCBS qualities	Adult day care (EW, AC waivers)	Adult day care (BI, CAC, CADI and DD waivers)	Day training and habilitation (DD waiver)	Prevocational services (CADI and BI waivers)	Structured day services (BI waiver)
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Opportunities to seek employment and work in competitive integrated settings.</li> </ul>	Not applicable	Not applicable	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Engagement in community life.</li> </ul>	No change	Practice change	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Control of personal resources.</li> </ul>	No change	Practice change	No change needed	No change needed	No change needed



Transition Plan Implementation for Home and Community-Based Settings

HCBS qualities	Adult day care (EW, AC waivers)	Adult day care (BI, CAC, CADI and DD waivers)	Day training and habilitation (DD waiver)	Prevocational services (CADI and BI waivers)	Structured day services (BI waiver)
Supports full access of people to the greater community including: <ul style="list-style-type: none"> <li>• Opportunity to receive services in the community.</li> </ul>	No change	Practice change	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change
A person has rights of privacy, dignity and respect, and freedom from coercion and restraint. The setting optimizes, but does not regiment, a person's initiative, autonomy and independence in making live choices, including but not limited to, daily activities, physical environment and with whom to interact.	No change	Practice change	Regulatory and/or practice change	Regulatory and/or practice change	Regulatory and/or practice change
A person chooses services, supports and provider.	No change	Practice change	Practice change	Practice change	Practice change