



ATTACHMENT 2: COMMENTS FROM AUGUST 2015 PUBLIC COMMENT PERIOD

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
1.	Assessment Activities	As part of the “look-behind” process, or as part of routine data collection, I urge DMMA and DDDS to include the voices of individuals – and their families when appropriate – in their assessment of provider compliance with the CMS rule and to note their commitment to doing so in the Transition Plan.	Centers for Disabilities Studies	A key tool to include the voices of individuals is through a member survey. As noted in the Plan and the July 2015 update to the Plan, DMMA’s member survey is currently live.  DDDS is in the process of developing a consumer survey in response to both public feedback and because the National Core Indicators survey results cannot be drilled down to the provider and service level as we had initially hoped. This task has been added to the Plan.	X
2.	Assessment Activities	The Plan contains contradictions regarding which groups will be involved in the “look behinds” of provider self-assessments. In addition, SCPD participated in subcommittees of the Governor’s Advisory Council to DDDS to develop the “State of Delaware Provider Self-Assessment HCBS Residential Services” and the “Delaware HCBS Day Services Recommended Compliance Assessment.” The documents	SCPD	The state has the responsibility for conducting the look-behind review process. However, for both DSHP and DDDS programs, other resources may be utilized for this purpose. For DSHP, DMMA may also look to assistance resources such as the Governor’s Commission on CBAID. DDDS will look for guidance from its Advisory Council.	X



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		are critical to the overall Plan and should be included as attachments for public comment.		As we noted in the Plan, the survey instruments have been developed with feedback from various stakeholders. Once finalized, surveys will be made available to the public.	
3.	Assessment Activities	Pg. 22 of the Plan notes that DDDS identified settings that are presumed not to be community based on 4/30/2015. Identifying residences that are on the grounds of institutions such as Stockley is not difficult; however, identifying settings that otherwise “isolate people with disabilities from the greater community” may require more scrutiny. SCPD recommends that the settings which have been identified to date be listed, as well as the methods used to identify such settings.	SCPD	The Department is in the process of conducting provider surveys, which will be used to identify settings that isolate people with disabilities from the greater community and develop a remediation plan accordingly. A findings report will be made available once the survey period ends and results are analyzed.	
4.	Assessment Activities	One of the largest concerns we have is whether or not those individuals that receive services in HCBS through DDDS will have significant input into the process of the plan and the outcome for them personally. There is concern that individuals who are nonverbal could not provide an accurate account of their living situation. There is no way to identify that all the residents and consumers of DDDS HCBS are satisfied with their supports or a way to educate those same individuals to provide informed feedback and	Delaware Developmental Disabilities Council	DDDS is working to improve its person centered planning process. This includes ensuring that the “voice” of the individual receiving services is heard throughout the planning process and monitoring of the delivery of services. For individuals with communication barriers, the DDDS Case Manager will seek out the assistance of individuals who know the person best and can help to communicate their wishes.	



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		to communicate in their own way their own opinions, Delaware will not be able to move forward with this plan.			
5.	Assessment Activities	The individuals in apartment complexes and houses that are funded by agencies and typically support individuals with physical disabilities are not mentioned in the review process and should be given the opportunity to weigh in on this issue.	Delaware Developmental Disabilities Council	Individuals receiving HCBS, including those living in apartment complexes and houses that are funded by agencies with physical disabilities, will receive a member survey to complete.	
6.	Assessment Activities	DDDS needs to first assess support needs before requiring individual door locks. Some people can properly use a door lock to ensure greater privacy. For others, such locks will be meaningless or dangerous.	Commenter Families Speaking Up	The HCBS final rule requires that individuals have the ability to lock their doors. However, the individual’s health and welfare must be taken into consideration. Any modifications related to the locking of doors must be addressed in the person-centered service plan.	
7.	Availability of Options	There should be a wide range of residential choices for individuals with I/DD and access to group homes should be preserved.	Multiple Commenters	We understand and share your commitment to making sure participants are safe, protected, and have the services and supports they need. The assessment of the settings and services, as described in the Transition Plan, will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered	



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				under an HCBS program. Settings that do not comply with the Rule will be afforded the opportunity to engage in remediation activities to come into compliance before March 17, 2019.	
8.	Barriers to Community Integration	A commenter expressed concern with the logistics of having people with severe, multiple disabilities served entirely in the community and whether they could endure five or more hours in the community.	CERTS, Inc.	The Rule was intended to improve the quality of the experience on the part of the recipients of HCBS. The person centered plan should address these concerns by reflecting each person’s choices and abilities to participate in activities in the community.	
9.	Barriers to Community Integration	Multiple commenters expressed concern about the cost to providers and the greater community to make these changes.	Multiple commenters CERTS, Inc. Families Speaking Up	We acknowledge this comment.	
10.	Increase Capacity for Community Employment	A commenter expressed concern about insufficient jobs in the community for HCBS members.	Commenter	DVR and DDDS are engaged in finding work for individuals who seek competitive employment. Strong collaboration and innovative response, like Pathways to Employment can make a difference. The numbers of persons who access Supported Employment services and obtain competitive employment improves each year. In 2012, approximately 64 people were successful in obtaining employment via Supported	



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				Employment services. In 2013 the numbers improved to 86 and improved again in 2014 when 96 people became employed using Supported Employment services.	
11.	Oversight Body	SCPD recommends that it be added to the list of oversight body participants.	SCPD	We would like to remind the commenter that there are other opportunities for stakeholder feedback such as public meetings.	
12.	Person-Centered Planning	A commenter expressed concern about how the Rule will impact person-centered plans. Not everyone can be in the community.	Commenter	CMS has indicated that the provision of HCBS funded under HCBS waivers, like the DDDS waiver, must be provided in settings that meet the characteristics of community based services, as defined in the Rule.	
13.	Person-Centered Planning	Family members and guardians should be fully informed about the person-centered service plan.	Commenter	The individual receiving HCBS and their guardian, when applicable, determine who will be involved in the planning process and with whom they will share their person centered plan. At a minimum, the Rule is clear that the person-centered service plan must be signed by and shared with all individuals and providers that are responsible for its implementation.	
14.	Person-Centered Planning	There is a need for education or training for families and guardians to be added to the planning process. Commenters requested training opportunities be provided by	Multiple Commenters	We agree about the importance of addressing the person-centered planning process in stakeholder training. Moving forward we will	



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		DMMA/DDDS, including well-prepared brochures detailing the person-centered planning process.		consider ways in which we can address this issue such as through development of brochures and provider/MCO training. DDDS is also in the process of revising its person-centered planning process and will engage families as it is developed. DDDS also plans to develop brochures about the process for families.	
15.	Person-Centered Planning	DDDS/DMMA should ensure that people with disabilities have access to settings that they need and prefer as expressed in their Person-Centered Plan.	Commenter	The person-centered service plan must document that the individual has chosen the setting where they reside from among a set of options that meet the requirements of the Rule.	
16.	Person-Centered Planning	DDDS is applauded for recognizing that improvements need to be made in the person-centered planning process.	DeIARF	We acknowledge this comment.	
17.	Person-Centered Planning	DDDS/DMMA should recognize that it may be appropriate to provide separate services and supports that are not fully integrated, in order to meet the assessed needs of individuals and to respond to the preferences expressed in their Person-Centered Plans.	Families Speaking Up	We are committed to supporting the needs and preferences of individuals within the requirements of the Rule.	
18.	Person-Centered Planning	The person-centered planning process required in the Rule does not seem to be getting adequate attention. The rule is crystal clear in requiring an authentic person-centered planning process for each individual. I would like to see the transition	Centers for Disabilities Studies	We agree with the commenter about the importance of the person-centered planning process to the success of persons receiving HCBS. However, it is important to note that per CMS requirements in the HCBS final rule	



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		plan include an acknowledgement of the importance of the person-centered planning process and a commitment to devising a genuinely person-centered approach here in Delaware.		the transition plan applies specifically to the HCB settings requirements and not to other provisions of the final rule.	
19.	Plan Implementation	We would appreciate seeing additional detail about how DDDS will comply with the law’s requirement that the plan be developed in consultation with authorized providers and that this is a transparent and inclusive process.	Commenter	The assessment of the HCB settings and services may determine that remediation is required for individual settings. DDDS will work with each provider to develop remediation strategies, as necessary.	
20.	Plan Implementation	CMS requires signed lease agreements between group homes and their tenants, which appears not to have been addressed.	SCPD	We acknowledge this comment. The availability of lease agreements is one of the issues to be assessed through the provider and participant surveys.	
21.	Plan Implementation	SCPD encourages the State to strictly follow the Olmstead guidance on integrated v. segregated settings and the CMS guidance on settings that have the effect of isolating individuals receiving HCBS from the broader community.	SCPD	In providing HCBS, we are held to the requirements of both the Olmstead decision and the Rule and therefore will proceed accordingly.	
22.	Plan Implementation	It is important to implement an ongoing, detailed body of data for people who are waiting for intellectual disabilities services and support is important (i.e., the Prioritization of Urgency of Need for Services (PUNS approach). DDDS/DMMA should include a system-wide analysis of the unmet or future needs for residential services and a	Commenter Families Speaking Up	This process is outside of the scope of the Transition Plan. However, DDDS does have a process to prioritize entry into the DDDS waiver that is based on a risk assessment. This process was approved by CMS as part of the waiver application.	



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		plan to meet them that recognizes the need for affordable, accessible housing options with a specific focus on people who will need these options over the next 5-10 years, which would be completed at least two years in advance of the transition plan deadline of March 17, 2019.			
23.	Plan Implementation	The proper interpretation of the settings requirements is not about full integration of residents in the community, but rather ensuring that HCBS participants have opportunities to experience integrated employment, to enjoy community living, to control their finances, and to receive services just like other community members. The degree to which services are integrated should be based on the needs of the individuals served.	DeIARF Families Speaking Up	CMS has publicly stated that integration into the community is one of the key driving forces behind the HCBS final rule.	
24.	Plan Implementation	Individuals in HCBS should see everything on paper and know about contracts between providers and the state.	Commenter	We acknowledge this comment.	
25.	Plan Implementation	The Transition Plan should be statewide.	Commenter	The Plan will be implemented statewide. Full compliance by all providers statewide participating in Delaware HCBS programs is required by 2019.	
26.	Plan Implementation	There has been scant mention of the impact to families of loved ones who need support to work and/or to live a meaningful life.	Commenter	We acknowledge this comment. We understand and appreciate the role of family members supporting their loved	





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				ones with disabilities and will be mindful of this as we move forward with implementation.	
27.	Plan Implementation	It is our understanding that under the waiver all options currently being offered in Delaware will continue. Is this still the plan under DHSS/DDDS and will an additional manual be forthcoming describing the expectation of facility based pre-vocational training?	Chimes	DDDS has no plans to remove any of the current services from the waiver. However, the assessment of the settings and services must be conducted before we can determine if any of the settings and services need to be modified in order to comply with the Rule. The current CMS-approved descriptions of all of the services covered under the DDDS waiver can be found in the waiver application. A PDF of the application is posted on the DDDS website.	
28.	Plan Implementation	Several commenters expressed that individuals should choose how to live their lives.	Multiple Commenters	We are committed to supporting the needs and preferences of individuals within the requirements of the Rule.	
29.	Plan Implementation	HCBS settings are important to everyone in the community.	Commenter	We acknowledge this comment.	
30.	Program Funding/Fiscal Impact	There is concern that if the remediation plan requires service providers to provide more community-integrated services and supports than they currently do, the \$32 million gap in funding for DD services that currently exists will get even bigger unless additional funding for LTSS is appropriated by the General	Multiple Commenters DelARF Families Speaking Up	We acknowledge this comment.	



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		Assembly.			
31.	Program Funding/Fiscal Impact	DeIARF wants to publicly thank Governor Markell for signing [the FY 2016 budget epilogue provisions] into law, as well as the Joint Finance Committee for recognizing the need to fully understand how the steps taken under the remediation plan will affect both the state’s finances and the range of services that will be made available to meet the needs of people with disabilities in the future.	DeIARF	We acknowledge this comment.	
32.	Program Funding/Fiscal Implications	Several commenters requested that DDDS/DMMA include a FY2016 budget epilogue language in the transition plan update that would state: “to assure that adequate financial consideration has been given to these activities, the remediation plan shall be developed in consultation with authorized providers of each service type and shall include the projected fiscal impact of the transition activities, as well as the likely impact of these activities on the quantity and quality of services available to people with disabilities in Delaware.”	Multiple Commenters Families Speaking Up	We acknowledge this comment. The epilogue language is included in Attachment 4.	
33.	Public Comments/ Public Comment Responses	The record from the first round of public comments was vague and failed to accurately indicate the strength of comments from families. We believe there was a bias in reporting concerns expressed by families. The State should record the number of	Commenter Families Speaking Up	We acknowledge this comment.	



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		comments and their specific content, and report this information to CMS.			
34.	Public Comments/ Public Comment Responses	DMMA's responses to public comments are general with little substance or specifics regarding potential remedies and timelines.	SCPD	We acknowledge this comment.	
35.	Stakeholder Engagement	It is unclear why the Delaware Healthcare Facilities Association (DHFA) is listed as the only stakeholder resource for identifying HUD homes and conducting a review of landlord/tenant code. The SCPD/Governor's Commission Housing Committee and/or CLASI's Fair Housing Program are more appropriate stakeholder resources.	SCPD	We acknowledge this comment. The assessment process has been completed. We have determined that all of the current HCB settings are covered under the Delaware Landlord/Tenant Code which we believe provides adequate protection for all HCBS participants. We have developed a tool simplifying the Landlord/Tenant Code that will be made available to all HCBS participants.	
36.	Stakeholder Engagement	It is very exciting that DMMA has taken a cross-disability approach in developing this plan. Another positive attribute is that DMMA will be utilizing consumer input throughout the process of evaluation. Finally, it is very positive that national statistics and surveys are being used to compare state data.	Developmental Disabilities Council	We acknowledge this comment.	
37.	Suggested Transition Plan Additions	The Plan should make changes to DDDS' PM46 so that it is user friendly, has one telephone number report line for those who do and for those who do not wish to reveal	Multiple Commenters Families	The DHSS policy on reportable incidents is outside the scope of the Statewide Transition Plan.	



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		their identity, and investigations need to be thorough and timely and include accountability points along the way. Families should be informed of the results of the investigations, and there is concern about the lack of a neutral outside entity to conduct investigations. Families Speaking Up requested to participate in discussions about how changes can be made to address flaws in the system.	Speaking Up		
38.	Suggested Transition Plan Additions	There is no input at all from the mental health community. It will be advantageous for Delaware to start looking at this population now while CMS is providing various tools and techniques.	Delaware Developmental Disabilities Council	We welcome all comments and invite all to provide feedback on the Plan. The Division of Substance Abuse and Mental Health is a member of the cross-agency advisory body.	
39.	Technical Correction	Using the term “Community Rule” may confuse stakeholders as to the intent and actual requirements of the CMS Final Regulation.	Commenter Families Speaking Up	We acknowledge this comment. The HCBS final rule is commonly referred to as the Community Rule. It is not our intent to confuse stakeholders, therefore we will be mindful of this in our communications moving forward.	
40.	Update to Transition Plan - Stakeholder Engagement	This has been a very inclusive process. All Governor’s Advisory Council for DDDS members had an opportunity to be heard along with members of the general public who attended the meetings.	Commenter	We acknowledge this comment.	



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41.	Update to Transition Plan - Stakeholder Engagement	SCPD does not believe that, to date, the Governor’s Commission on Community Based Alternatives for Individuals with Disabilities has actively participated in various aspects of the Plan.	SCPD	We meet on a regular basis with representatives of the Governor’s Commission on CBAID. We have also presented to the group on more than on occasion.	
42.	Update to Transition Plan - Stakeholder Engagement	I want to commend DMMA and DDDS on their work to date and for their commitment to hearing from all stakeholders in the process of developing the transition plan	Centers for Disabilities Studies	We appreciate this comment.	
43.	Update to Transition Plan – State Self-Assessment Results	The Plan states, “DDDS’ Person Centered Planning process is being revised and will incorporate (all elements) for implementation by not later than the spring of 2016.” Providers have been invited to participate in the planning process. Please include Families Speaking Up self-advocates and families as well as others in the process.	Families Speaking Up	We value stakeholder input and will continue to engage with a broad range stakeholders in making improvements to the current person-center planning process and other activities related to implementing the Plan.	