

# State of Delaware



## Statewide Transition Plan for Compliance with Home and Community-Based Setting Rule

Updated March 30, 2016

**Delaware Division of Medicaid and Medical Assistance**  
**Department of Health and Social Services**

---

**Table of Contents**

INTRODUCTION ..... 1

PURPOSE ..... 2

OVERVIEW OF HCBS IN DELAWARE..... 3

    DDDS Waiver HCBS ..... 4

    DSHP Demonstration HCBS ..... 7

APPROACH TO DEVELOPING THE STATEWIDE TRANSITION PLAN..... 9

STATEWIDE TRANSITION PLAN TIMELINE ..... 10

DDDS AND DSHP ASSESSMENT AND REMEDIATION PLANS..... 12

    DDDS Waiver Assessment and Remediation Plan ..... 12

        Phase 1: Development of survey instruments and processes to assess compliance with the  
        Community Rule ..... 12

        Phase 2: Implementation of survey instruments and processes developed in Phase 1 to  
        assess compliance with the Community Rule ..... 13

        Phase 3: Use assessment results and other data sources to finalize inventory of services  
        and settings vis-à-vis compliance with the Community Rule..... 16

        Phase 4: Develop remediation strategies to bring non-compliant services, settings policies,  
        etc. into compliance with the Community Rule ..... 17

        Phase 5: Implement remediation strategies ..... 17

        Phase 6: Monitor ongoing compliance ..... 18

    Matrix of DDDS Waiver Action Items Organized by Major Categories of the Requirements of  
    the Community Rule ..... 19

    July 2015 Update to DDDS Waiver Assessment and Remediation Plan..... 30

        State Self-Assessment Results ..... 30

        Provider Surveys..... 30

        Training..... 30

        Other..... 31

    February 2016 Update to DDDS Waiver Assessment and Remediation Plan ..... 32

        State Systemic Assessment..... 32

        Consumer Assessment of Settings and Services..... 32

        Assessment of Provider Settings and Policies ..... 33

## Delaware Statewide Transition Plan

---

Remediation.....	37
Homes on the Grounds of a Public Institution .....	39
Delaware Waiver Enrollees Residing in Other States.....	40
Beneficiary Relocation .....	40
Ongoing Monitoring.....	41
DSHP Demonstration Assessment and Remediation Plan .....	43
Phase 1: Development of survey instruments and processes to assess compliance with the Community Rule .....	43
Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with the Community Rule .....	43
Phase 3: Use assessment results and other data sources to finalize inventory of services and settings vis-à-vis compliance with the Community Rule.....	46
Phase 4: Develop remediation strategies to bring non-compliant services, settings, policies, etc. into compliance with the Community Rule .....	46
Phase 5: Implement remediation strategies .....	47
Phase 6: Monitor ongoing compliance .....	47
Matrix of DSHP Demonstration Action Items Organized by Major Categories of the Requirements of the Community Rule .....	48
July 2015 Update to DSHP Demonstration and Remediation Plan .....	62
State Self-Assessment Results .....	62
Surveys.....	62
Training.....	63
Other.....	64
February 2016 Update to DSHP Demonstration and Remediation Plan .....	65
State Systemic Assessment.....	65
Provider Settings Assessment Process.....	65
MCO Assessment – Survey and Results .....	65
Remediation.....	71
Heightened Scrutiny.....	73
Beneficiary Relocation .....	73
Ongoing Monitoring.....	74
Public Comments.....	76
Comments from DDDS Focus Group Meetings on the DDDS Waiver Portion of the Statewide Transition Plan .....	76

## **Delaware Statewide Transition Plan**

---

Comments on Statewide Transition Plan ..... 79

ATTACHMENT 1: COMMENTS FROM MARCH 2015 PUBLIC COMMENT PERIOD

ATTACHMENT 2: COMMENTS FROM AUGUST 2015 PUBLIC COMMENT PERIOD

ATTACHMENT 3: DDDS STATE SELF-ASSESSMENT OF LAWS, RULES, POLICIES, ETC. TO  
SUPPORT THE CMS HCBS COMMUNITY RULE JULY 17, 2015 AND DMMA  
STATE SELF-ASSESSMENT OF LAWS, RULES, POLICIES TO SUPPORT  
THE CMS HCBS COMMUNITY RULE JULY 7, 2015

ATTACHMENT 4: FY 2016 BUDGET EPILOGUE LANGUAGE (Section 178)

ATTACHMENT 5: CMS COMMENTS AND DHSS RESPONSES

ATTACHMENT 6: UPDATED STATE SYSTEMIC ASSESSMENTS

ATTACHMENT 7: DDDS SURVEYS

ATTACHMENT 8: DSHP SURVEYS

ATTACHMENT 9: COMMENTS FROM FEBRUARY 2016 PUBLIC COMMENT PERIOD

### **FEBRUARY 2016 NOTE TO REVIEWER**

On November 30, 2015, CMS submitted comments (via email) on the Delaware Statewide Transition Plan (the Plan). Delaware’s Department of Health and Social Services (DHSS) is updating the Plan to respond to those comments and to reflect the current status of implementation activities as of February 2016. We direct you to the following sections of the Plan that contain updated information:

1. **New sections “February 2016 Update to DDDS Waiver Assessment and Remediation Plan” and “February 2016 Update to DSHP Demonstration and Remediation Plan” for new information since publication of the Plan in September 2015;**
2. **Attachment 5 for CMS comments on the Plan and DHSS’ responses;**
3. **Attachment 6 for updated state systemic assessments by provider setting type;**
4. **Attachment 7 for DDDS provider and member surveys; and**
5. **Attachment 8 for DSHP provider and member surveys and findings and MCO self-assessment instrument.**
6. **Attachment 9 for comments from March 2016 public comment period DDDS/DMMA responses.**

We have also updated the Plan timelines on pages 20 and 47 to note, when appropriate, revised tasks, new tasks, new dates, and completion status. All new information is highlighted in bold text.

The Plan is an evolving process. In some instances our assessment activities and approaches have deviated from our original plan. In other instances we have added more detail regarding processes. We refer you to this new and updated information for the current status of our approaches, activities, and timeframes.

## **INTRODUCTION**

In response to the Centers for Medicare & Medicaid Services (CMS) promulgating a rule which for the first time defines the standard of being “community-based,” Delaware – and the individuals and families we serve – is committed to the goals of enhancing the quality of home- and community-based services (HCBS) and ensuring full access to the benefits of community living. The Department of Health and Social Services (DHSS) is driven by core values that enhance individuals’ access to the least-restrictive environments, promotes individual choice, and engages families and significant others. DHSS has and will continue to engage stakeholders, and will continue to facilitate and promote a robust stakeholder process as the State conducts activities toward implementation of the Final Rule.

The intent of the rule, also referred to as the “Community Rule,” is to ensure that people receiving federally funded HCBS have opportunities to access community services in the most-integrated settings possible. This includes opportunities to seek employment and work in competitive settings, engage in community life, control personal resources, and participate in

## **Delaware Statewide Transition Plan**

---

the community to the same extent as people who do not receive HCBS. DHSS understands how important these services are to Medicaid enrollees and will work collaboratively with individuals, their loved ones, and other stakeholders to ensure continuity of services, minimal disruption, and support during implementation.

The Final Rule required that states submit to CMS a Statewide Transition Plan on or before March 17, 2015: 1) demonstrating the process the State will undertake to assess the HCBS provided to participants and the settings in which these services are provided and 2) describing the assessment process and timeframes to ensure full compliance with federal requirements by March 17, 2019. Delaware's Division of Medicaid and Medical Assistance (DMMA), which is within DHSS, will submit the Plan addressing the above requirements for all programs offering in the State.

### **PURPOSE**

The purpose of the Plan is to describe the process the State of Delaware will use to:

- Assess current State and provider policies, standards and practices against the Community Rule;
- Assess waiver services and settings against the Community Rule;
- Develop strategies to remediate situations that are determined not to be in compliance; and
- Demonstrate Delaware's full compliance with the Community Rule by March 17, 2019.

<b>The specific elements addressed in the Plan include the following:</b>
1. A description of the process to assess current policies, standards, practices, etc. against the Community Rule requirements for both the State and providers.
2. A description of the process that will be used to assess waiver services and settings against the Community Rule requirements, including timeframes for completion of various tasks.
3. A description of the process that was used to solicit public comment in the development of the draft Plan, including a 30 day comment period.
4. A summary of public comment received.
5. A description of how the public comment was used in the development of the Plan.
6. Time frames for producing a summary of how each setting meets or does not meet the federal Home and Community-Based (HCB) settings requirements.
7. Time frames for bringing State and provider policies, standards, practices, etc. into compliance.
8. Time frames for bringing all HCB settings into compliance.
9. A plan for ensuring the health and safety of participants who reside or are served in locations that need to meet corrective action requirements for the setting to come into compliance during the State's specified transition time.

## **Delaware Statewide Transition Plan**

---

The intent of the Plan is to: 1) ensure that participants receive Medicaid HCBS in settings that are integrated in and support full access to the greater community, 2) ensure the health and welfare of participants and 3) maintain the ability to receive federal funding for critical community based supports and services.

The Plan can be viewed online at: [http://dhss.delaware.gov/dhss/dmma/hcbs\\_trans\\_plan.html](http://dhss.delaware.gov/dhss/dmma/hcbs_trans_plan.html).

## **OVERVIEW OF HCBS IN DELAWARE**

Delaware provides multiple HCBS for Medicaid recipients through four federally approved programs: 1) Division of Developmental Disabilities Services (DDDS) 1915(c) waiver, 2) Diamond State Health Plan (DSHP), 3) Pathways to Employment (Pathways) program and 4) Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE) program. PROMISE and Pathways are administered by DMMA's sister agencies within DHSS. PROMISE is administered by Delaware's Division of Substance Abuse and Mental Health (DSAMH) under Delaware's 1115 demonstration. Pathways is administered jointly by DDDS and the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) under concurrent 1915(b)(4) and 1915(i) authorities.

The DDDS waiver, operated by DDDS under a Memorandum of Agreement with DMMA provides HCBS as an alternative to institutional placement for individuals 12 and over with intellectual developmental disabilities (IDD), including brain injury, autism spectrum disorder and Prader Willi Syndrome. As of September 2014, 980 individuals are enrolled in the DDDS waiver.

The DSHP demonstration was initially approved in 1995, and implemented on January 1, 1996. The demonstration mandatorily enrolls Medicaid recipients into managed care organizations (MCOs). In addition to acute care services such as physician and nursing services, the demonstration also provides HCBS to eligible individuals (who would otherwise receive care in a nursing facility) through a mandated managed care delivery system called DSHP-Plus. As of December 2014, 176,454 individuals are enrolled in DSHP and 11,640 are enrolled in DSHP-Plus.

In December 2014, CMS approved two new programs that expanded the availability of HCBS options for Delaware Medicaid recipients. Pathways, effective January 1, 2015, is a program designed for persons age 14-25 with disabilities (intellectual disabilities, autism spectrum disorders, visual impairments or physical disabilities) who want to work. PROMISE, also effective January 1, 2015, is a program that provides enhanced behavioral health services and supports for persons 18 and over who have severe and persistent mental illness and/or a substance abuse disorder and who require HCBS to live and work in integrated settings. Since Pathways and PROMISE are new programs, prior to approval they had to meet all federal requirements, including requirements regarding the Community Rule. Therefore, Pathways and PROMISE are not addressed in the Plan.

## Delaware Statewide Transition Plan

---

The following are the HCBS to be assessed under the Plan, organized by the HCBS program under which it is provided.

### ***DDDS Waiver HCBS***

The DDDS waiver offers the following HCBS that will be addressed in the Plan (including excerpts of service definitions from the approved waiver):

**Day Habilitation Services:** Services that are regularly scheduled activities provided in a non-residential setting, separate from the participant's private residence or other residential living arrangement, such as assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living, physical development, basic communication, self-care skills, domestic skills, community skills and community-inclusion activities. Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice. Services are furnished consistent with the participant's person-centered plan and are integrated into the community as often as possible.

Day Habilitation Services focus on enabling the participant to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the individual's person-centered services and supports plan, such as physical, occupational, or speech therapy.

**Prevocational Services:** Prevocational Services provide learning and work experiences, including volunteer work and/or internships, where the individual can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated community settings. Services are expected to produce specific outcomes to be achieved, as determined by the individual and his/her services and supports planning team through an ongoing person-centered planning process evaluated annually. Prevocational Services may be furnished in fixed site locations or in community based settings.

Individuals receiving Prevocational Services must have employment-related goals in their person-centered services and supports plan; the general habilitation activities must be designed to support such employment goals. Competitive, integrated employment in the community for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities is considered to be the optimal outcome of Prevocational Services.

**Residential Habilitation:** Residential Habilitation Services can include assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the

preparation of food, and the social and adaptive skills necessary to enable the individual to reside in a non-institutional community based setting. The scope of these services is based on the individual's need and can be around-the-clock or blocks of hours.

Residential Habilitation Services may be provided in a neighborhood group home setting, a supervised or staffed apartment (community living arrangement), or a shared living arrangement (formerly titled adult foster care).

The following activities may be performed under all Residential Habilitation:

- Self-advocacy training that may include training to assist in expressing personal preferences, self-representation, and individual rights and to make increasingly responsible choices.
- Independent living training may include personal care, household services, child and infant care (for parents themselves who are developmentally disabled), and communication skills such as using the telephone.
- Cognitive services may include training involving money management and personal finances, planning and decision making.
- Implementation and follow-up counseling, behavioral or other therapeutic interventions by residential staff, under the direction of a professional, that are aimed at increasing the overall effective functioning of an individual.
- Emergency Preparedness.
- Community access services inclusions that explore community services available to all people, natural supports available to the individual, and develop methods to access additional services/supports/activities desired by the individual.
- Supervision services may include a person safeguarding an individual with developmental disabilities and/or utilizing technology for the same purpose.

**Supported Employment – Individual:** Individual Supported Employment Services are provided to participants, at a one to one staff to consumer ratio, who because of their disabilities, need ongoing support to obtain and maintain an individual job in competitive or customized employment, or self-employment position, in an integrated work setting in the general workforce for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. The outcome of this service is sustained paid employment at or above the minimum wage in an integrated setting in the general workforce, in a job that meets personal and career goals in order to promote community inclusion.

Supported individual employment may also include support to establish or maintain self-employment, including home-based self-employment. Supported employment services are individualized and may include any combination of the following services: vocational/job-related discovery or assessment, person-centered employment planning, job placement, job development negotiation with prospective employers, job analysis, job carving, training and systematic instruction, job coaching, on the job employment

supports, social skills training, benefits support, training and planning, transportation, asset development and career advancement services, implementation of assistive technology, and other workforce support services including services not specifically related to job skill training that enable the waiver participant to be successful in integrating into the job setting.

**Supported Employment – Group:** Supported Employment Small Group Employment Support are services and training activities provided in regular business, industry, and community settings for groups of two (2) to eight (8) workers with disabilities. Examples include mobile crews and other employment work groups. Small group employment support must be provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces. The outcome of this service is sustained paid employment and work experience leading to further career development and individual integrated community based employment for which an individual is compensated, at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Supported employment small group employment supports may be a combination of the following services: vocation/job related discovery or assessment, person center employment planning, job placement, job development, social skills training, negotiation with prospective employers, job analysis, training and systematic instruction, job coaching, benefits supports, training and planning, transportation and career advancements services.

Other workplace support services may include services not specifically related to job skill training that enable the waiver participant to be successful in integrating in to the job setting.

**Supported Living:** Supported living is support that is very individualized and is provided in a residence that is owned or leased by the waiver member. The amount and type of supports provided are dependent upon what the individual needs to live successfully in the community and must be described in their Plan of Care (ELP) but cannot exceed 40 hours per week for each member. Daily hours of support may vary based on the needs of the individual. Supported living encourages maximum physical integration into the community and is designed to assist the individual in reaching his or her life goals in a community setting.

The types of supports provided in these settings are tailored supports that provide assistance with acquisition, retention, or improvement in skills related to:

- Activities of daily living, such as personal grooming and cleanliness, domestic chores, or meal preparation, including planning, shopping, cooking, and storage activities;

## Delaware Statewide Transition Plan

---

- Social and adaptive skills necessary for participating in community life, such as building and maintaining interpersonal relationships, including a Circle of Support;
- Locating and scheduling appropriate medical services;
- Instrumental activities of daily living such as learning how to maintain a bank account, conducting banking transactions, managing personal finances in general;
- Learning how to use mass transportation;
- Learning how to select a housemate;
- How to acquire and care for a pet; and
- Learning how to shop.

The individual may want to learn a new skill or may have some proficiency in certain parts of a skill but want to learn how to complete the entire task independently. Supported living must be provided based on the individualized needs of each waiver member and at naturally occurring times for the activity, such as banking and those related to personal care. Supported living is provided on a one-on-one basis. If services are provided with two or more individuals present, the amount of time billed must be prorated based on the number of consumers receiving the service. Payments for Supported Living do not include room and board.

### ***DSHP Demonstration HCBS***

The DSHP demonstration offers the following HCBS that will be addressed in the Plan (including excerpts of service definitions from the approved special terms and conditions):

**Community Based Residential Alternatives:** Community Based Residential Alternative Services offer a cost-effective, community based alternative to nursing facility care for persons who are elderly and/or adults with physical disabilities. This currently includes assisted care living facilities. Support services include personal care and supportive services (homemaker, chore, attendant services, and meal preparation) that are furnished to participants who reside in homelike, non-institutional settings. Assisted living includes a 24-hour onsite response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. Services also include social and recreational programming, and medication assistance (to the extent permitted under state law). As needed, this service may also include prompting to carry out desired behaviors and/or to curtail inappropriate behaviors. Services that are provided by third parties must be coordinated with the assisted living provider. Because personal care is a component part of the services provided in assisted living facilities as part of the community based residential service, persons residing in assisted living facilities cannot receive personal care as a separate stand-alone service.

**Respite:** Respite Care includes services provided to participants unable to care for themselves furnished on a short-term basis because of the absence or need for relief of

those persons who normally provide care for the participant. Federal financial participation (FFP) is not claimed for the cost of room and board. This is provided both at home and in nursing and assisted living facilities. This service is limited to no more than fourteen (14) days per year. The MCO may authorize service request exceptions above these limits on a case-by-case basis when it determines that:

- No other service options are available to the member, including services provided through an informal support network;
- The absence of the service would present a significant health and welfare risk to the member; and
- Respite service provided in a nursing home or assisted living facility is not utilized to replace or relocate an individual's primary residence.

**Adult Day Services:** Services furnished in a non-institutional, community based setting, encompassing both health and social services needed to ensure the optimal functioning of the participant. Meals provided as part of these services shall not constitute a "full nutritional regimen" (three meals per day). Physical, occupational and speech therapies indicated in the individual's plan of care will be furnished as component parts of this service. The service is reimbursed at two levels: the basic rate and the enhanced rate. The enhanced rate is authorized only when staff time is needed to care for participants who demonstrate ongoing behavioral patterns that require additional prompting and/or intervention. Such behaviors include those which might result from an acquired brain injury. The behavior and need for intervention must occur at least weekly. This service is not available to persons residing in assisted living.

**Day Habilitation:** Day Habilitation includes assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that takes place in a non-residential setting, separate from the participant's private residence. Activities and environments are designed to foster the acquisition of skills, appropriate behavior, greater independence, and personal choice. Meals provided as part of these services shall not constitute a "full nutritional regimen" (three meals per day). Day Habilitation services focus on enabling the participant to attain or maintain his or her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies in the service plan. In addition, Day Habilitation Services may serve to reinforce skills or lessons taught in other settings. This service is provided to participants who demonstrate a need based on cognitive, social, and/or behavioral deficits such as those that may result from an acquired brain injury. This service is not available to persons residing in assisted living.

### **APPROACH TO DEVELOPING THE STATEWIDE TRANSITION PLAN**

In 2014, DMMA initiated a process to re-procure MCOs for the DSHP program. The purpose of this re-procurement was to improve program oversight and administration as well as the quality of services offered to MCO members. This process began in 2013 with the drafting of a new MCO contract. In January 2014, DMMA published the request for proposal and new contracts were implemented January 1, 2015. DMMA conducted an extensive readiness review with the MCOs, which included both desk reviews of policies and procedures and onsite reviews with key MCO staff. Thus, 2014 was a resource-intensive period for DMMA and the MCOs as well as a period of significant transition. As a result, DMMA is at the early stages in its assessment activities related to the Plan.

DDDS has taken a lead role, with support by and coordination with DMMA, focusing on preliminary assessment of the DDDS waiver for compliance with the Community Rule. The results of this preliminary assessment are outlined below in the Plan.

It is important to note that the Plan identifies at a high level the activities and requirements that will be implemented for the DDDS waiver and the DSHP demonstration. For additional insight or intent regarding the Plan and the State's intent, we refer you to the responses to comments received on the Plan at the end of this document.

Moving forward, the specific approach and details surrounding each program will be further defined and will reflect the input and guidance of the particular program's stakeholders, and, as appropriate, will reflect the unique structure and organization of the program itself. As appropriate, the Plan will be revised and submitted to CMS if significant modifications are necessary. Revised versions of the Plan as well as any related materials that will be developed as part of the Plan's implementation will be published, providing additional opportunities for public feedback.

Delaware is committed to engaging with stakeholders and has sought public input from various stakeholders including participants, family members, associations, advocacy groups, and others throughout the process of the Plan development. During the implementation of the Plan, Delaware will continue to seek stakeholder input through a variety of opportunities and venues. Stakeholder input has strengthened the development of the Plan, and will be of critical importance during assessment and remediation.

Additional stakeholder feedback will come from the governing structure for the Plan. For the DDDS portion of the Plan, the Advisory Council to the Division of Developmental Disabilities Services (Advisory Council to DDDS) will serve as the steering committee for feedback in implementing the Plan. Various workgroups will be established by the Advisory Council to DDDS to implement specific tasks. It is our intent that the composition of the work groups will be representative of family members who represent the varying support needs of people within the DDDS service system and other key stakeholders. Similar to DDDS, DMMA will draw upon the experience and expertise of a stakeholder group, the Governor's Commission on Community

## Delaware Statewide Transition Plan

---

Based Alternatives for Individuals with Disabilities (Governor's Commission on CBAID), as the key stakeholder advisory entity during the assessment processes for DSHP.

Although the description below regarding assessment and remediation activities is organized according to program area (DDDS waiver and DSHP demonstration), Delaware is committed to providing a comprehensive, coordinated approach to determining compliance with the Community Rule. This means that where appropriate, processes for the programs, activities and timeframes for the programs will be comparable.

Multiple agencies are involved in administering the State's Medicaid program. As such, a cross-agency team will monitor DMMA's assessment and remediation activities. The team will consist of representatives from DMMA, DDDS, DSAAPD, DSAMH and the Division of Long Term Care Residents Protection (DLTCRP). Other agencies will be included in the process as appropriate and as warranted by specific tasks. The team will meet at a minimum, monthly, but will meet more frequently if necessary depending on the task at hand. Regularly scheduled meetings will enable the team to touch base on key issues, to ensure that tasks remain on track and to develop and implement any necessary course modifications. Updates will be provided to key leadership, including the DHSS Secretary. DDDS will report to DMMA, on a regular frequency, regarding the status of implementing the DDDS waiver portion of the Plan.

Final responsibility for the development and submission of the Plan, including meeting the requirements for public notice, rests with DMMA. In the course of implementing the Plan, DMMA will be responsible for any negotiations with CMS regarding any possible changes to the Plan. DMMA will look to the cross-agency oversight body for guidance and direction in these processes.

## **STATEWIDE TRANSITION PLAN TIMELINE**

**Note to reviewer: Updates to the activity dates noted in the chart below can be found in the February 2016 updates to DSHP and DDDS assessment and remediation activities found later in the document.**

The following is a high level timeline noting all phases of the Plan. Details regarding the activities in each phase and associated timeframes are described later in the Plan.

Activity	Estimated Start Date	Estimated End Date
<b>Preparing and Submitting the Plan for CMS Approval</b>		
1 <sup>st</sup> Stakeholder meeting for DDDS waiver transition plan.	January 21, 2015	N/A
Incorporate stakeholder feedback into DDDS waiver transition plan.	January 21, 2015	February 5, 2015

## Delaware Statewide Transition Plan

Activity	Estimated Start Date	Estimated End Date
2 <sup>nd</sup> Stakeholder meeting for DDDS waiver transition plan.	January 28, 2015	N/A
Post the Plan for public comment.	February 6, 2015	March 9, 2015
Publish the Plan in newspaper and on DMMA website.	February 6, 2015	N/A
1 <sup>st</sup> Public Hearing for the Plan (New Castle County).	February 23, 2015	N/A
2 <sup>nd</sup> Public Hearing for the Plan (Kent County).	February 27, 2015	N/A
Review, incorporate and respond to public comments on the Plan.	March 9, 2015	March 13, 2015
Modify the Plan and post on DMMA website (including summary of public comments and state response).	On or before March 17, 2015	N/A
Submit the Plan to CMS for approval.	On or before March 17, 2015	N/A
<b>Implementing the Plan</b>		
Phase 1: Development of survey instruments and process to assess compliance with Community Rule.	DDDS: February 2015	DDDS: July 2015
	DSHP: April 2015	DSHP: July 2015
Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with Community Rule.	DDDS: August 2015	DDDS: December 2015
	DSHP: August 2015	DSHP: January 2016
Phase 3: Use assessment results and other data sources to create inventory of services and settings vis-à-vis compliance with Community Rule.	DDDS: January 2016	DDDS: February 2016
	DSHP: February 2016	DSHP: March 2016
Phase 4: Develop and approve remediation strategies to bring non-compliant services, settings, policies, etc. into compliance with Community Rule.	DDDS: February 2016	DDDS: July 2016
	DSHP: April 2016	DSHP: August 2016
Phase 5: Implement remediation strategies.	DDDS: August 2016	DDDS: March 17, 2019
	DSHP: September 2016	DSHP: March 17, 2019
Phase 6: Monitor ongoing compliance.	DDDS: August 2016	DDDS: March 17, 2019

<b>Activity</b>	<b>Estimated Start Date</b>	<b>Estimated End Date</b>
	DSHP: September 2016	DSHP: March 17, 2019

## **DDDS AND DSHP ASSESSMENT AND REMEDIATION PLANS**

This section of the Plan describes the assessment processes to determine compliance with the Community Rule and the remediation actions to address identified issues for the DDDS waiver and the DSHP demonstration. Activities for the DDDS waiver are presented first, followed by activities for the DSHP demonstration. The assessment and remediation activities are described in a sequential manner as “phases.”

This section also includes a matrix for each component of the Plan (DDDS waiver activities and DSHP demonstration activities) that organizes activities by the major categories of the Community Rule requirements.

### ***DDDS Waiver Assessment and Remediation Plan***

#### **Phase 1: Development of survey instruments and processes to assess compliance with the Community Rule**

***Start Date: February 2015***

***End Date: July 2015***

DDDS will work with the Advisory Council to DDDS and any work groups convened by the Advisory Council to DDDS to develop survey instruments and protocols to assess the extent to which the following either: comply with, are contradictory to or are silent on the requirements under the Community Rule:

- State laws, regulations, policies, etc. and provider policies; and
- HCBS and HCB settings.

The Advisory Council to DDDS will create one or more sub-work groups comprised of stakeholders (as enumerated in the matrix that follows) to develop the survey instruments. The CMS Exploratory questions for residential and non-residential settings will be incorporated into the survey instrument.

DDDS intends to create assessment instruments for provider policies regarding HCBS and HCB settings that will be completed by the providers as a self-assessment instrument. The self-assessment instruments must include a place for the provider to document how they meet the Community Rule requirement. For the provider policy assessment, this must take the form of citations and excerpts from written documents maintained by the provider. For the services and settings assessment, the provider must also provide documentation of compliance using such

## Delaware Statewide Transition Plan

---

documentation as training curricula or staff performance plans in addition to other relevant documentation.

Delaware DDDS had hoped to be able to use data from the Delaware results of the National Core Indicators (NCI) survey as cross-validation of the provider self-assessment surveys, since the survey includes questions about employment, rights, service planning, community inclusion, choice, and health and safety. Unfortunately, we learned that we are not able to parse out the survey results into locations or types of settings. As a result of this and also because of feedback we received from the public hearings, DDDS will create a consumer survey instrument that will include the same types of questions as the DDDS Residential and Day Service surveys. The results from these surveys will be used to validate information received from the provider self-assessments in addition to the look-behind reviews.

### **Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with the Community Rule**

**Start Date: August 2015**

**End Date: December 2015**

#### Assessment of State Laws, Regulations, Policies, etc.

The sub-work group of the Advisory Council to DDDS will work with staff of DDDS to administer the survey tool against State laws, regulations, policies, etc. to determine compliance with the Community Rule. A final report will be issued with the findings of the group. The report will indicate for each requirement under the Community Rule whether the State:

- Has sufficient written guidance and processes in place to ensure compliance.
- Has some written guidance and processes in place that must be augmented in order to ensure compliance.
- Has no written guidance or processes in place to ensure compliance.

Copies of the report will be provided to the cross-agency oversight body for review. In addition, copies of the report will be shared with stakeholder groups.

The review process will include the following State, Department and Division documents and related practices, at a minimum:

- Delaware Code
  - Title 16, Chapter 11, Subchapter II. Rights of Patients
  - Title 16, Chapter 55, Subchapter I. Declaration of General and Special Rights of Persons Diagnosed with Intellectual Disabilities and Other Specific Developmental Disabilities
  - Title 25, Part III Landlord/Tenant Code
- Delaware Administrative Code
  - Title 16, DHSS, Section 3000 DLTCRP, 3310 Neighborhood Homes for Persons with Developmental Disabilities (interpretive guidelines)
  - **Title 16, Section 3320 Intensive Behavioral Support and Educational Residence (IBSER)**

## Delaware Statewide Transition Plan

---

- Department Policies
  - PM 24 – Safeguarding client funds
  - PM 25 Voter Registration – Federally Funded Programs
  - PM 31 Site Selection for People with Disabilities
  - PM 36 Standardized Requirements During the Development Phase of Community Based Residential Homes for the DHSS/Division
  - PM 40 w/ Addendum A: Criminal Background Check
  - PM 46 Policy Memorandum concerning Patient Abuse/Injury/Self Harm, etc.
  - PM 62 Housing/Rent Calculations
- DMAP DDDS Provider Manual (on DMAP website)
- DDDS Waiver Provider Certification Application
- DDDS Waiver Service Provider Qualifications DDDS Waiver Application July 1, 2014 renewal approved by CMS
- DDDS Provider Contracts:
  - Day and Residential Appendix A
  - Residential Appendix A-1
  - Shared living contract Appendix A and related documents
  - Other contract documents
- DDDS standards
  - DDDS Waiver Certification Standards Manual (on DDDS website)
- DDDS manuals
  - A Guide to the Division of Developmental Disabilities Services In Delaware by the Arc of Delaware May 2010
  - Case Manager Desk Manual
  - ELP Manual and Forms (under revision)
  - Nurse Consultant Manual
  - Behavioral Consultant Manual (under revision)
- DDDS policies
  - Community Services
  - “Administrative” Policies (apply across all services)
- DDDS monitoring tools
  - Case Manager monthly contact (in ECR)
  - Office of Quality Improvement (OQI) Survey tool (used in the CSR and also in agency reviews)
- Staff performance plans
  - Senior Social Worker/Case Manager (DDDS Case Managers)
  - Social Worker/Case Manager Supervisor
- Provider lease agreements
- DDDS Provider Lease Approval form
- DDDS Curriculum for Direct Support Professional from the College of Direct Support

Additional relevant materials may be added to the review as they are identified.

### Provider Self-Assessment of Provider Policies and Other Written Guidance

Waiver service providers will complete the self-assessment survey instrument developed in Phase I to assess their level of compliance with the Community Rule. In order to increase the provider response rate, a process will be created to follow-up with providers failing to meet requested response timeframes.

## **Delaware Statewide Transition Plan**

---

Based on the results of the survey, an authorized representative of each provider will attest in writing whether they believe that their organization's rules and policies are either fully compliant with the Community Rule or that remediation is necessary. Providers that indicate that remediation is necessary will be required to submit a Corrective Action Plan to the State within 30 days of submission of the provider self-assessment.

The sub-work group of the Advisory Council to DDDS will conduct "look-behind" reviews of a sample of the provider self-assessment survey results to validate the provider self-assessments.

DDDS and DMMA will develop an appeal process for providers to dispute the State's findings of non-compliance.

### *Provider Self-Assessment of Waiver Services and Settings*

Waiver service providers will complete the self-assessment instrument developed in Phase I to assess their level of compliance with the Community Rule. Providers will need to complete a self-assessment for every site where the provider offers services. Similar to the provider self-assessment of policies and other written guidance process, DDDS will develop an acceptable response rate for the self-assessment instrument. In order to increase the provider response rate, a process will be created to follow-up with providers failing to meet requested response timeframes.

Based on the results of the survey, an authorized representative of each provider will attest in writing whether they believe that their organization settings are either fully compliant with the Community Rule or that remediation is necessary. Providers that indicate that remediation is necessary will be required to submit a Corrective Action Plan to the State within 30 days of submission of the provider-self assessment. The Corrective Action Plan must be approved by the State before it can be implemented.

Under the oversight of the Advisory Council to DDDS, the DDDS Office of Quality Improvement (OQI) will conduct "look-behind" reviews of a sample of the provider self-assessment survey results to validate the provider self-assessments. Look-behind reviews will include onsite visits. The Advisory Council to DDDS will assist in developing the methodology for the look-behind reviews, including sample composition and the process for onsite visits. The DDDS and DMMA will ensure that all review processes are conflict free and will develop dispute resolution processes for the findings.

Information obtained from the analysis of the consumer surveys will supplement data gathered from the provider self-assessments of the services and settings and the look-behind reviews.

Provider settings/services that will be reviewed for compliance as part of this process include:

- Neighborhood group homes;
- Community living arrangements (staffed apartments);
- Shared living arrangements;
- Day habilitation facilities and non-facility-based programs;

## **Delaware Statewide Transition Plan**

---

- Prevocational facilities and non-facility based programs; and
- Supported Employment providers.

Any assessment results that indicate approved deviations from the requirements under the Community Rule for specific waiver members must be supported by the individual needs of the waiver member as specified in the person-centered plan. Where deviation is recommended, the following standard must be met:

- Identification of a specific condition or individualized need that is directly proportionate to the deviation being recommended;
- Documentation of positive interventions and supports tried prior to the recommended deviation from the requirements, including less intrusive methods of meeting the need that were tried and did not work;
- Ongoing periodic review to measure the effectiveness of the deviation from standard practice;
- Establishment of a timeframe within which the deviation should be discontinued if it is no longer needed or effective;
- An assurance that the interventions and supports will cause no harm to the individual; and
- Informed consent of the individual or legal representative (see 42 CFR §441.301(c) (2) (xiii)(G)).

DMMA and DDDS will develop an appeal process for providers to dispute the State's findings of non-compliance.

### **Phase 3: Use assessment results and other data sources to finalize inventory of services and settings vis-à-vis compliance with the Community Rule**

***Start Date: January 2016***

***End Date: February 2016***

D DDS will create an inventory of all waiver settings, both residential and non-residential, and each setting will be initially identified as either 1) not compliant, 2) presumed not to be compliant, 3) likely not to be compliant, or 4) fully compliant, the latter two of which will be based on the results of the provider self-assessments and the look-behind reviews conducted by the Advisory Council to D DDS sub-work group. The inventory will summarize how each setting meets or does not meet the federal HCBS requirements.

#### **Settings PRESUMED NOT to be Compliant**

D DDS will identify specific settings, both residential and non-residential, that are PRESUMED NOT to be HCBS compliant because they are on grounds of, or adjacent to, a public institution, they are in a publicly or privately-owned facility providing inpatient treatment or they have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. Stockley Center is the only public Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID) in Delaware. This review will include residential and non-

## **Delaware Statewide Transition Plan**

---

residential settings out of state for which waiver funds are currently being used. This review will be conducted by DDDS staff prior to the completion of the provider self-assessment by those agencies.

### All Other Settings

DDDS staff will use the results of the following data sources to populate the inventory with the initial compliance status as outlined above:

- Provider self-assessments; and
- Look-behind reviews conducted by the Advisory Council to DDDS sub-work group.

An appeal process will be developed for providers to dispute the State's findings of non-compliance.

### **Phase 4: Develop remediation strategies to bring non-compliant services, settings policies, etc. into compliance with the Community Rule**

**Start Date: February 2016**

**End Date: July 2016**

Based on the inventory of Delaware HCBS residential and non-residential settings, remediation will need to be developed for any services or settings that are determined to not meet the federal HCBS requirements. Providers for which remediation is necessary will be required to submit a Corrective Action Plan to the State within 30 days of submission of the provider self-assessment.

To the extent that remediation strategies have financial implications for the providers and for the State, budget strategies may need to be developed by the State.

### **Phase 5: Implement remediation strategies**

**Start Date: August 2016**

**End Date: March 17, 2019**

Any Corrective Action Plans and other remediation strategies identified in Phase 4 must be fully implemented by March 17, 2019 so that the entire waiver service delivery system will be compliant with the Community Rule.

The State will ensure that throughout the remediation phase, measures will be put in place to continuously monitoring participant health and welfare and the quality of care. State staff and stakeholders will be engaged in this activity.

In the event that a provider is initially determined not to meet all appropriate HCBS requirements, participants will have the choice of continuing to receive services from the provider while the provider implements corrective action to bring the setting into compliance. Relocation processes will be tailored to each individual with full participation of the individual and his/her family/caregiver. DDDS will work with the individual and his/her family/caregiver and provider (existing and new), etc. to develop a smooth transition process that will ensure

## **Delaware Statewide Transition Plan**

---

continuity of care and protect the health and welfare of the individual throughout the process. The individual's plan of care will be updated accordingly.

### ***Phase 6: Monitor ongoing compliance***

***Start Date: August 2016***

***End Date: Ongoing***

The DDDS Office of Quality Improvement will monitor progress on Corrective Action Plans and will also begin routine monitoring of compliance with the requirements of the Community Rule during the Transition period for providers for whom no Corrective Action Plan is in effect.

***Matrix of DDDS Waiver Action Items Organized by Major Categories of the Requirements of the Community Rule***

This section of the Plan organizes the activities for the DDDS waiver by the major categories of requirements under the Community Rule:

- Broad stakeholder involvement in the development of the Plan.
- State systemic review of policy/procedure/provider qualification standards.
- Evaluate individual HCB settings.
- Ongoing monitoring by the DDDS Office of Quality Improvement (OQI).

**Delaware Statewide Transition Plan**

<b>DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area</b>				
<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
<b>Section 1: Broad Stakeholder Involvement in the Development of the Transition Plan</b>				
Schedule meetings to solicit stakeholder input in the development of a draft Transition Plan via focus group meetings.	DDDS Director's Office Administrative Support			Completed
<p>Hold focus group meetings to solicit stakeholder &amp; public input into the development of the Transition Plan.</p> <p>Provide an overview of the Community Rule and solicit input into the development of the draft DDDS Transition Plan.</p> <p>DDDS will use a transcription service to facilitate ability to capture all comments.</p>	DDDS Director DDDS Deputy Director DDDS Director of Quality Improvement DDDS Director of Day & Transition Services	<p>Stakeholders participating include:</p> <p>DD Council SCPD State Ombudsman GACEC Advisory Council to DDDS Arc of DE DELARF People First (self-advocates) Disabilities Law Program DE Family Voices Waiver Providers Families of individuals receiving DDDS waiver services &amp; other DDDS services MCAC (briefed at their meeting on 12/10/14) Ask Advocacy orgs to get the word out to families to encourage participation in the public meetings scheduled by DMMA for February</p>		Completed

**Delaware Statewide Transition Plan**

<b>DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area</b>				
<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
Publish a draft DDDS transition plan on the DDDS website for public comment with link to email address for comments.	DDDS Staff DHSS IRM Helpdesk to establish email Resource account DDDS provider and family listservs (make sure this includes Autism Speaks & the Downs Syndrome Assn)	Explore Facebook, Twitter, WDEL Consider translating the Plan into Spanish	To be published DDDS website by 2/6/15	3/9/15 for the initial draft Completed
Review, incorporate and respond to public comments on the draft DDDS Transition Plan Summarize the comments received and the frequency for each type of comment and post the comments and how they were used in the draft DDDS Transition Plan.	DDDS Staff			Completed
Create a "parking lot" of any issues that come up during the development or implementation of the DDDS transition plan that are outside of the scope of the Plan.	DDDS Staff		1/27/15	Ongoing
Update the status of the CMS-approved DDDS section of the transition plan on the DDDS website on a specified frequency (monthly) to enable the public to follow the status of the Plan.	DDDS Staff		4/1/15	When DDDS services are fully compliant
Provide DDDS section of the transition plan to DMMA for inclusion in the Plan to be posted for public comment.	DDDS Staff			Completed

## Delaware Statewide Transition Plan

DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area				
Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
<b>Section 2: State Systemic Review of Policy/Procedure/Provider Qualification Standards Review</b>				
Establish oversight body to monitor the DDDS waiver section of the DDDS transition plan to apply a cohesive strategy to compliance with the Community Rule.  The Advisory Council to DDDS will serve as the Steering Committee for the DDDS transition process.		Stakeholders at the 1/21 and 1/28/15 focus groups		Completed
Advisory Council to DDDS to create charter to define their role and that of the sub-work group and protocols for how they will operate (i.e., reporting structures and timeframes).	DDDS Staff	Advisory Council to DDDS	2/17/15	3/17/15 Completed
Form one or more sub-work groups of the Advisory Council to DDDS consisting of DDDS staff and stakeholders to assist DDDS in the process of reviewing its policies and procedures. This will spread workload among one or more work groups.	DDDS Staff	Advisory Council to DDDS	2/17/15	3/31/15 Completed
Identify HUD Homes and any financial or other terms that impact compliance.	Lottie Lee (DHSS Housing Coordinator)		2/17/15	4/30/15 Completed
Conduct review of Delaware landlord/tenant code vis-à-vis the Rule.	Delaware Housing Authority	Advisory Council to DDDS	2/17/15	4/30/15 Completed
Develop survey instrument to use to assess for DDDS and provider (self-assessment) policies, procedures, etc. against the Rule.	DDDS Deputy Director DDDS Director of Policy DDDS Director of Quality Improvement	Advisory Council to DDDS sub-work group; research should be conducted on tools that other states may have already developed	3/17/15	7/31/15
Use survey tool to assess for DDDS policies, procedures, etc. against the Rule to determine whether DDDS policies, etc. are compliant with the Rule or whether there are gaps.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Policy	Advisory Council to DDDS sub-work group	7/1/15	9/17/15 Completed

**Delaware Statewide Transition Plan**

<b>DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area</b>				
<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
Analyze DDDS waiver provider qualification standards and internal procedures to determine compliance with the Rule or whether there are gaps.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Professional Services	Advisory Council to DDDS sub-work group	7/1/15	<b>3/31/16</b>
Evaluate current DDDS required training against the Rule.	DDDS staff	Advisory Council to DDDS sub-work group	2/1/15	Completed
Determine if the College of Direct Support curriculum has been vetted against the Rule by CMS. The DDDS Director of Quality Improvement will work with Elsevier to make this determination.	DDDS Chief of Quality Improvement	Elsevier	2/1/15	Completed
Evaluate current waiver service definitions against the new requirements.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Community Services DDDS Director of Day & Transition Services	Advisory Council to DDDS sub-work group	7/1/15	10/15/15 <b>Completed</b>
<b>DDDS must identify its internal policies that are not compliant and require remediation.</b>	<b>DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Professional Services</b>	<b>Advisory Council to DDDS sub-work group</b>	<b>9/1/15</b>	<b>3/31/16 Completed</b>

**Delaware Statewide Transition Plan**

<b>DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area</b>				
<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
<b>Delaware must identify state laws and regulations that re not compliant and require remediation.</b>	<b>DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Policy DE Division of Long Term Care Residents Protection DLTCRP (as necessary to make regulatory changes)</b>	<b>Advisory Council to DDDS sub-work group</b>	<b>9/1/15</b>	<b>3/31/16 Completed</b>
<b>Advisory Council to DDDS will review and provide feedback on any DDDS strategies for remediation.</b>		<b>Advisory Council to DDDS</b>	<b>1/1/16</b>	<b>7/31/16</b>
<b>Remediation:</b>				
Change DDDS policy regarding training curriculum. Add or delete CDS modules that will facilitate staff and provider compliance with the Rule. Work with Elsevier to add new modules as necessary.	DDDS Staff DDDS Director of Quality Improvement DDDS Policy Administrator	Elsevier	4/1/15	9/30/15 Completed
Implement new curriculum as necessary.	DDDS Director of Professional Development	Providers	7/1/15	12/31/15 Completed
Create explanation in plain language of tenant rights to be given to all waiver members that reside in provider-owned or leased properties.	Committee of DDDS, DMMA, DMS and DSAPPD staff	Advisory Council to DDDS	5/1/15	6/30/15 Completed
Make necessary changes to Division policies, procedures, laws, regulations, etc.	DDDS Staff		8/1/16	10/31/16
<b>Make necessary changes to DDDS waiver provider standards to codify expectations via the HCBS Rule.</b>	<b>DDDS Office of Quality Improvement</b>		<b>7/1/15</b>	<b>7/1/18</b>
<b>Revise monitoring tool used by the DDDS</b>	<b>DDDS Staff</b>		<b>1/1/16</b>	<b>7/1/16</b>

## Delaware Statewide Transition Plan

DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area				
Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
<b>Office of Quality Improvement to include the HCB settings requirements.</b>				
Make necessary changes to DDDS Provider qualification criteria, form and practices.	DDDS Staff		8/1/16	10/31/16
Make necessary changes to state or DHSS policies, procedures, laws, regulations, etc.	DDDS staff DE Division of Long Term Care Residents Protection DLTCRP (as necessary to make regulatory changes)	Public input will be sought for regulatory changes via the Delaware Register of Regulations	1/1/16	1/31/17 <b>*Any changes requiring legislative action must be implemented by 3/17/19.</b>
Develop a waiver amendment to revise any service definitions as necessary. Any waiver amendment will be submitted to CMS by DMMA.	DDDS Staff DMMA (must review and approve changes)	Public input will be sought for changes to the waiver via established protocols	Within 9 months of CMS approval of the Plan	
Revise the DMAP Provider manual for changes to waiver service definitions as necessary.	DDDS Staff DMMA (must review and approve changes)		After approval of amendment by CMS	
Submit necessary changes to the DDDS HCBS waiver application to CMS to communicate and enforce expectations re: the Rule.	DDDS Staff	Public input will be sought for changes to the waiver via established protocols CMS	After the Plan is approved	6 months after CMS approval
<b>Section 3: Evaluate Individual HCB Settings</b>				
Identify residential sites covered under the waiver that are PRESUMED NOT to comply with the Rule because they are not on the grounds of a public institution.	DDDS Director DDDS Deputy Director	Advisory Council to DDDS sub-work group will assist DDDS	4/1/15	4/30/15 Completed
<b>Communicate with authorities in other states outside of Delaware in which Delaware waiver members reside to assess compliance based on that state's assessment.</b>	<b>DDDS Director DDDS Deputy Director DDDS Chief of DDDS Office of Quality</b>	<b>Advisory Council to DDDS sub-work group will assist DDDS</b>	<b>8/1/15</b>	<b>3/31/16 Completed</b>

**Delaware Statewide Transition Plan**

<b>DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area</b>				
<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
	<b>Improvement</b>			
Identify residential sites (including out of state) paid for with waiver funds that are likely to NOT be community based even without performing a full assessment.	DDDS Director DDDS Deputy Director DDDS Director of Professional Services	Advisory Council to DDDS sub-work group will assist DDDS	8/1/15	9/30/15 <b>Completed</b>
Develop a provider self-assessment tool for residential providers/sites.		Advisory Council to DDDS will serve as the Steering Committee and will create sub-work groups as necessary to assist DDDS in the development of the survey instrument; research should be conducted on tools that other states may have already developed	4/1/15	8/7/15 Completed
Develop a provider self-assessment tool for non-residential providers/sites.	DDDS Office of Quality Improvement DDDS Administrative Support	Advisory Council to DDDS will serve as the Steering Committee and will create sub-work groups as necessary to assist DDDS in the development of the survey instrument; research should be conducted on tools that other states may have already developed	4/1/15	8/7/15 Completed
Do a pilot with one residential and day program to work out the bugs of the survey instrument.			7/27/15	8/7/15 Completed

## Delaware Statewide Transition Plan

DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area				
Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Analyze results of pilot, make corrections to the survey questions, add the questions to Survey Monkey and develop a set of instructions for the providers.			8/7/15	9/4/15 Completed
Present provider self-assessment survey tool to providers and instructions for its use.			8/17/15	9/10/15 Completed
State desk reviews of provider self-assessments.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Regional Program Directors DDDS Director of Day & Transition Services	Advisory Council to DDDS sub-work group	11/1/15	1/31/16
<b>Issue report of findings to providers following the provider self-assessment and desk audit.</b>	<b>DDDS Staff</b>	<b>Providers</b>	<b>2/15/16</b>	<b>3/31/16</b>
Conduct a consumer survey for a sample of DDDS waiver members.	DDDS Case Managers	Self-advocates	1/1/16	3/31/16
Conduct onsite “look-behind” review of a 20% sample of providers using the review tool.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Regional Program Directors DDDS Director of Day & Transition Services	Advisory Council to DDDS sub-work group, supplemented with additional advocates as necessary to meet workload	1/31/16	5/31/16
<b>Issue report of findings to providers following onsite review.</b>	<b>DDDS Staff</b>	<b>Providers</b>	<b>2/15/16</b>	<b>5/31/16</b>
Conduct a full review of provider settings for all providers not reviewed as part of the compliance above at the next provider QA review.	DDDS Office of Quality Improvement		First review date after 7/1/16	Ongoing on provider review annual anniversary date

## Delaware Statewide Transition Plan

DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area				
Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
<b>Remediation:</b>				
Transition Remaining two waiver members off the Stockley ICF-IID grounds. A new home is being built to meet their specific needs.	DDDS Staff	Providers	6/1/14	12/31/16
Provider development, submission and implementation of CAPs. CAPs must be approved by DDDS.		Providers	<b>4/15/16</b> (Within 60 days of receipt of findings report providers must submit CAPs for review and approval.)	<b>All CAPs must be completed on or before July 31, 2018.</b>
Review and approval of provider CAPs	DDDS Office of Quality Improvement		<b>6/15/16</b> Within 60 days of receipt of provider CAPs	<b>10/31/16</b>
Providers implement approved remediation strategies per an approved CAP		Providers	By the timeframe specified in the State's approval letter for the CAP	<b>All CAPs must be completed on or before July 31, 2018.</b>
Implement revised monitoring tool used by the DDDS office of Quality Improvement to include the HCB settings requirements.	DDDS Office of Quality Improvement		7/1/16	Ongoing
Implement changes to DDDS waiver provider standards to codify expectations via the HCBS Rule.	DDDS Office of Quality Improvement		<b>7/1/18</b>	Ongoing
Review DDDS rates for adequacy to support the requirements of the Rule (especially related to smaller staffing ratios in the day programs).	DDDS Staff		7/31/16	<b>12/30/16</b>
Include a budget strategy related to any necessary	DDDS Staff		Prepare for	

**Delaware Statewide Transition Plan**

<b>DDDS Transition Plan Elements Organized by HCBS Final Rule Compliance Area</b>				
<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
changes to rates.			FY18 budget	
Develop a policy regarding aging in place.	DDDS Staff		8/1/15	11/1/16
<b>Develop process for providers to dispute findings.</b>	<b>DDDS Staff</b>		<b>2/1/16</b>	<b>2/26/16 Completed</b>
<b>Implement process for providers to dispute findings.</b>	<b>DDDS Staff</b>		<b>2/26/16</b>	<b>2/26/16 Completed</b>
<b>Section 4: Ongoing Monitoring</b>				
Develop a Continuous Quality Improvement Curriculum for providers	DDDS Chief of Quality Improvement		1/1/16	9/30/16
Offer training and technical assistance to providers in best practices for developing remediation	DDDS Office of Quality Improvement		7/1/16	Ongoing
Implement changes to DDDS waiver provider standards to codify expectations via the HCBS Rule	DDDS Office of Quality Improvement		7/1/18	Ongoing
Implement revised monitoring tool used by the DDDS Office of Quality Improvement to include the HCB settings requirements	DDDS Office of Quality Improvement		7/1/16	Ongoing
<b>Remediation:</b>				
Add QA measures in the waiver application specific to the Community Rule.	DDDS Director of Quality Improvement DMMA (must review and approve changes)	CMS	Within nine months of CMS approval of the Plan	
Implement new provider standards.	DDDS Director of Quality Improvement		7/1/18	Ongoing
Implement new monitoring tools for OQI.	DDDS Director of Quality Improvement		7/1/16	Ongoing

### *July 2015 Update to DDDS Waiver Assessment and Remediation Plan*

#### State Self-Assessment Results

The results of the DDDS review of applicable state laws, regulations and policies are included as a new Attachment 3 to the Plan. The attachment is presented as a matrix that provides an overview of the extent to which current state laws, regulations and policies are compliant with the Community Rule final requirements, using the CMS exploratory questions as guidelines for the compliance review. Specifically, the matrix notes:

- The specific state document reviewed to determine compliance;
- Identified gaps, if any; and
- Recommended steps for remediation, including development of new policy.

**Changes to State laws and regulations and DDDS policies and practices necessary to implement the HCBS Final Rule will be implemented as outlined in the State Systemic Assessment document (Attachment 6).**

#### Provider Surveys

DDDS has actively involved a diverse group of stakeholders in developing the provider surveys for DDDS waiver providers. The stakeholders include: self-advocates, families, parents, providers, attorneys specializing in disability law and the advocacy organizations such as the Advisory Council to DDDS. Stakeholders, along with DDDS staff, formed two workgroups to develop the provider surveys; one tasked with developing the residential services provider survey and the other responsible for developing the day services provider survey. Each workgroup was co-chaired by a self-advocate. The workgroups met nine times for three hours over the course of three months and drew upon CMS requirements and guidance, surveys from other state programs, and knowledge of the Delaware system of care to draft the final recommended surveys.

The workgroups were fully informed about their role in implementing the Plan. They were committed to the effort and appreciated being included in the process.

The provider surveys are currently under review by the Advisory Council to DDDS. In addition, DDDS is finalizing details of the provider survey pilot to test the validity of the provider survey tools. Upon completion of the provider pilot, DDDS will make any needed changes to the survey tools and process as a result of feedback gained from the pilot. DDDS is targeting August 2015 for implementation of the provider surveys. Once finalized, copies of the survey instruments will be made available to the public for general information.

#### Training

DDDS worked with Elsevier, the company that licenses the College of Direct Support training curriculum required by DDDS for all direct support staff that work with DDDS consumers, to determine whether the training modules required by DDDS are compliant with the Community Rule. The detailed findings of that review are included in the DDDS State-Self Assessment. All of the CDS modules required by DDDS were determined to be compliant with the Community Rule.

### *Other*

DDDS has continued to engage stakeholders in meaningful discussions regarding implementation of the Plan, issues of concern and impact on service delivery. The following represents some of the stakeholder engagement activities that have occurred since March 2015:

- Presentation at meetings of stakeholder groups;
- Presentation at National Association of Councils on Developmental Disabilities 2015 Annual Conference; and
- Presentation to the DDDS Case Management Conference June 21, 2015.

## ***February 2016 Update to DDDS Waiver Assessment and Remediation Plan***

### **State Systemic Assessment**

DDDS developed a matrix format using the requirements of the HCBS Final Rule as individual data elements in Phase 1. DDDS staff then systematically compared each existing state rule, regulation, policy, etc. in the list enumerated in the Plan to the list of requirements. For each requirement, the matrix included a space for DDDS to indicate: 1) the citation within each source document that was reviewed, 2) an indication of whether the source, supported the Rule, was silent on the Rule or incomplete, or contradictory to the Rule, and 3) a recommended corrective action strategy. A separate companion document also included excerpts from the documents with the language that demonstrated compliance with the HCBS Final Rule.

The DDDS Director issued a final report of findings to the Advisory Council to DDDS at one of its regular monthly meetings. A revised version of the report will include an updated version of the matrix, included in Attachment 6, that more clearly indicates for each requirement under the HCBS Rule whether the State written laws and rules are:

- Compliant
- Not compliant and require either removal or revision to become compliant
- Silent

The report was also provided to the Delaware cross-agency oversight body for review. In addition, copies of the report were shared with stakeholder groups by publishing the report on the DMMA website with the other Plan materials.

DDDS is in the process of assigning responsibility internally for making changes as identified in the State Systemic Assessment or working with external entities to ensure that the changes are made.

### **Consumer Assessment of Settings and Services**

Delaware DDS had hoped to be able to use data from the Delaware results of the NCI survey as cross-validation of the provider self-assessment surveys, but we learned that we are not able to parse out the survey results into locations or types of settings. As a result of this, and also because of feedback we received from the public hearings, DDDS convened a workgroup under the auspices of the Advisory Council to DDDS to develop a consumer survey instrument that includes the same types of questions as the DDDS Residential and Day Service surveys. The workgroup met on December 3, 2015 to work on the survey. The group decided to create two separate sets of questions, one for residential settings and one for day service settings.

The survey instruments were finalized on December 10, 2015. Because of the time lag involved in trying to use the NCI results and not being able to do so, the timeframe for developing and implementing the consumer survey fell outside of the planned timeframe for this phase of the process. We had also initially hoped to be able to use the results of the consumer survey to help target settings to be reviewed as part of the 20% sample for

the look-behind reviews, but now this may not be possible because of the timing. To the extent they are available, the results from these surveys will be used to validate information received from the provider self-assessments in addition to the look-behind reviews.

### **Participant Survey**

The participant survey was finalized in December 2015 and is currently being implemented. For waiver members with guardians, the survey will be mailed to the guardian to complete. Individuals who do not have a guardian will be assisted to complete the survey by either their DDDS case manager, the DDDS waiver manager, or a member of the staff of the DDDS Office of Quality Improvement. The results from these surveys will be used to validate information received from the provider self-assessments in addition to the look-behind reviews. The participant survey will be completed by March 31, 2016.

### **Assessment of Provider Settings and Policies**

DDDS worked with the Advisory Council to DDDS to develop survey instruments and protocols to assess the extent to which providers either comply or do not comply with the requirements under the HCBS Rule.

Provider settings/services that are being reviewed for compliance as part of this process include:

- Neighborhood group homes
- Community living arrangements (staffed apartments)
- Shared living arrangements
- Day habilitation facilities and non-facility-based programs
- Prevocational facilities and non-facility based programs
- Supported employment providers
- Supported living providers
- Provider settings regulated by the IBSER regulations

### **Provider Self-Assessment of Settings and Policies**

The Advisory Council to DDDS created two sub-work groups comprised of stakeholders (as enumerated in the matrix that follows), one for residential settings and one for day service settings, to develop the survey instruments to assess the compliance of each setting and service. The CMS exploratory questions for residential and non-residential settings were incorporated into the survey instruments.

Providers were informed that they must be prepared to provide documentation of how they meet the HCBS Rule requirement for any requirements they indicate they are meeting for each setting. They were informed that the following types of items would constitute acceptable forms of documentation that they are complying with each requirement: citations or excerpts from written documents they maintain, training curricula, or staff performance plans.

All waiver service providers in Delaware have now completed the self-assessment survey instruments developed in Phase I for every site where the provider offers HCBS services in order to assess their level of compliance the HCBS Final Rule.

### Provider Survey Methodology

The provider surveys for day and residential agency providers were launched September 4, 2015 and closed November 13, 2015. The surveys for Shared Living providers were launched November 11, 2015 and closed December 7, 2015. See Attachment 7 for a copy of the survey instruments for day and residential agency providers and shared living providers. Providers used the survey instrument to assess their level of compliance with the HCBS Final Rule as reflected in their practices and also in their policies and procedures.

Provider participation in the survey was mandatory. The following statement accompanied the provider survey:

*The survey must be completed no later than November 13, 2015. Failure to complete the survey for all relevant parts of your organization doing business with DDDS by that date may result in the termination of a provider's status as a DDDS Authorized Provider.*

To assist providers in meeting the deadline, DDDS initiated the following actions:

- DDDS emailed a reminder to all qualified providers at the following increments: 10 days prior to the deadline, five days prior to the deadline, and two days prior to the deadline. The above mentioned statement regarding the consequences for failure to complete the survey was included in the reminder notices.
- Five days after the deadline, all providers who failed to complete the survey for all applicable settings were sent an email message giving them an additional 48 hours to complete the survey for all of their settings. The email notified providers that failure to comply would result in DDDS putting the provider on probation. Probation letters would include the timeframe within which the provider must submit their survey results. Failure to meet the timeframes as outlined in the probation letter would also result in DDDS pursuing progressive discipline, up to and including the discontinuation of the provider's contract and their status as a DDDS Authorized Provider.

### Desk Review

Between November 2015 and January 2016, DDDS conducted desk reviews of the provider survey results. The desk reviews were conducted by the DDDS Office of Quality Improvement with augmentation by other DDDS staff, such as the Manager of the DDDS Day and Transition Unit, the DDDS Shared Living Coordinators, the DDDS Community Services Regional Program Directors, and DDDS case managers, and based on their subject matter expertise in specified areas. The purpose of the desk review was to ensure that all questions were answered and that narrative responses were provided

where indicated. Another purpose of the desk review was for DDDS to use data it had acquired independently to validate provider responses to individual questions. The kinds of independent data used included the results of Quality Service Reviews conducted by the DDDS Office of Quality Improvement, past direct observations by DDDS staff, abuse/neglect/rights violation complaints, and case manager notes. Based on the independently available data, follow-up questions can be asked for particular settings. The independent data also helps to determine which settings to select for a look-behind review if the independent data conflicts with the provider responses to the self-assessment.

These other sources of information could contradict a provider's survey responses. For example, if a consumer living in a specified residence filed a rights complaint because they were not allowed to open their mail and the provider responds to the survey question that addresses that basic right by indicating that all residents have access to their mail, DDDS would follow up with that provider to request evidence of compliance. This setting may also be added to the sample of providers who will be subject to an onsite look-behind review, in addition to the 20% minimum sample that DDDS will review onsite.

DDDS will issue a Report of Findings to each provider based on the desk review of the provider's survey results. This Report will include a preliminary finding that the setting is either compliant or is non-compliant but could become compliant with modification or cannot become compliant. Providers that are determined to be non-compliant must submit either a CAP or must indicate that they cannot come into compliance in which case a plan to transition waiver members to a compliant provider will be developed.

The CAP must be submitted to the State within 60 days of receiving the Report of Findings. The State must approve the provider's proposed remediation strategies. While, in general, the State does not expect providers to take remedial action until the Plan is approved by the State, providers may choose to initiate remediation strategies prior to receiving approval of their CAP. If they do this, however, they run the risk that the proposed remediation strategy may not be accepted by the State. It is anticipated, however, that there may be settings and services where only "minor" remediation may be necessary.

As part of DDDS's review of provider self-assessments, it will look for areas of non-compliance that appear to be common across all providers, since this suggests that a more comprehensive remediation strategy may need to be pursued across all providers.

### **Onsite Look-Behind Reviews**

In addition to the desk reviews, the DDDS Office of Quality Improvement will conduct "look-behind" reviews for a sample of the provider self-assessment survey results to validate the provider self-assessments. DDDS will conduct onsite look-behind reviews

between) January 31, 2016 and May 31, 2016. The look-behind reviews will either confirm or contradict the results of the desk review.

Look-behind reviews will include onsite visits to inspect the setting itself and to view written materials or other documentation that support the provider's self-assessment of their status compliance with each requirement they are responsible for meeting under the Rule. DDDS will present a draft process outline to the Advisory Council to DDDS for conducting the look-behind reviews at its meeting in February. The outline will include how the settings will be selected for inclusion in the sample, who will conduct the onsite review, how will the results of the review be recorded, and how will the results be communicated to the provider.

Any assessment results that indicate approved deviations from the requirements under the HCBS Final Rule for specific waiver members must be supported by the individual needs of the waiver member and articulated in the person-centered plan. For the purpose of this review, a Behavior Support Plan developed per DDDS policy is considered to be part of the person-centered plan. Where deviation is recommended, the following standard must be met:

- Identification of a specific condition or individualized need that is directly proportionate to the deviation being recommended;
- Documentation of positive interventions and supports tried prior to the recommended deviation from the requirements, including less intrusive methods of meeting the need that were tried and did not work;
- Ongoing periodic review to measure the effectiveness of the deviation from standard practice;
- Establishment of a timeframe within which the deviation should be discontinued if it is no longer needed or effective;
- An assurance that the interventions and supports will cause no harm to the individual; and
- Informed consent of the individual or legal representative (see 42 CFR §441.301(c)(2)(xiii)(G)).

### Methodology for Selection of the 20% Minimum Sample

The recommendation to the Council will include the following elements regarding the selection of settings for the 20% minimum sample. At least one setting for each provider and service combination will be selected. The minimum 20% sampling criteria will be stratified by service. The selection of the settings to be reviewed for each provider will start with sites that are already scheduled to be reviewed during the period as part of the Quality Service Review survey (a random selection by waiver member) or the annual provider recertification reviews conducted by DDDS for settings that are licensed by the Division of Long Term Care Residents Protection. These are settings that would have otherwise been surveyed during this period anyway. This will enable DDDS to more efficiently use the time of its program review staff. DDDS will also use the results of Quality Service Reviews conducted by the DDDS Office of Quality Improvement, past

direct observations by DDDS staff, abuse/neglect/rights violation complaints, and case manager notes to target additional settings for the look-behind review where independently obtained information conflicts with provider responses to one or more self-assessment questions. DDDS will also perform an onsite look-behind review for settings that indicate “substantial” non-compliance, as determined by DDDS, based on the results of the DDDS preliminary review of the provider self-assessment.

DDDS believes that the minimum sample size of 20%, plus any additional targeted settings as described above, will result in appropriate representation of the DDDS HCBS provider network.

To the extent that it is available within the timeframe within which the look-behind reviews will be conducted, information obtained from the analysis of the consumer surveys will also be used to target settings for the look-behind review. This is likely to result in sampling that will be greater than the 20% minimum sample size by service type.

In conducting the look-behind review, the DDDS reviewers will use the new survey tool that is being officially implemented for reviews that take place on or after July 1, 2016. That new review tool includes all of the requirements under the HCBS Rule. That means that within one year of July 1, all waiver sites, including those that were not selected for the look-behind review, will have had an onsite review against the HCBS requirements.

DDDS intends to assign the same member of the DDDS Office of Quality Improvement to conduct the look-behind reviews for all sites operated by the same provider selected for review. Because providers would be expected to have common policies and procedures, this is likely to result in a streamlined review process across the settings with a consistent approach to the review.

The protocols for selecting the sample and for conducting the reviews were presented to the Advisory Council for DDDS at its February 2016 meeting.

### **Remediation**

In addition to the Report of Findings that will be issued after the desk audits are completed, DDDS will issue a separate Report of Findings to each provider for which an onsite look-behind review was conducted. This Report will include a preliminary finding that the setting is either compliant, is non-compliant but could become compliant with modification or cannot become compliant. Providers with non-compliant settings must submit a CAP within 60 days of receiving the Report indicating that they are not compliant. The CAP must provide sufficient details regarding the following key elements:

- The specific non-compliant issue(s).
- Corrective actions to be taken to ameliorate the non-compliant issue.
- Dates by which the actions will be taken and the person responsible for each action.
- The strategy that will be employed to monitor progress toward coming into compliance.

- Strategy for continuous monitoring to ensure continued compliance.

DDDS must respond to or approve the CAP within 60 days of receiving it. In its letter of approval for each CAP, the State will indicate the frequency of reporting that must be done by the providers to the DDDS Office of Quality Improvement until the remediation is complete. It is anticipated that remediation for some non-compliant areas may take longer to address than others. DDDS will assign an OQI staff member to monitor the provider's implementation of the CAP. Quarterly onsite visits will be conducted by the OQI for any settings governed by a CAP to validate the progress described in the reports.

While, in general, the State does not expect providers to take remedial action until the Plan is approved by the State, providers may choose to initiate remediation strategies prior to receiving approval from the State of their CAP, but they run the risk that the proposed remediation strategy may not be accepted by the State. It is anticipated, however, that only "minor" remediation may be necessary for some settings.

To the extent that DDDS determines that systemic remediation across all providers is necessary and can be achieved through enhanced training of direct support professionals or others, statewide trainings will be coordinated or arranged by the DDDS Office of Professional Development. Additional trainings may need to be added to the DDDS required training curriculum for waiver providers by service type or type of direct support professional.

The State will ensure that throughout the remediation phase, measures will be put in place to continuously monitor participant health and welfare and the quality of care. State staff and stakeholders will be engaged in this activity.

A single remediation strategy may be recommended to address multiple areas of non-compliance if appropriate. The CAP must be approved by the State.

To the extent that remediation strategies have financial implications for the providers and for the State, budget strategies may need to be developed.

In the event that a provider is initially determined not to meet all appropriate HCBS requirements, participants will have the choice of continuing to receive services from the provider while the provider implements corrective action to bring the setting into compliance. Relocation processes will be tailored to each individual with full participation of the individual and his/her family/caregiver. DDDS will work with the individual and his/her family/caregiver, provider (existing and new), etc. to develop a smooth transition process that will ensure continuity of care and protect the health and welfare of the individual throughout the process. The individual's person-centered plan will be updated accordingly.

The timelines for completion of strategy will be specified in the CAP. CMS has required that states have remediation activities in place prior to the March 17, 2019 deadline to ensure that remediation activities are appropriate and successful. Therefore, all CAPs

must be completed on or before July 31, 2018; this is a check point. DDDS believes this timeframe is sufficient to allow providers to address identified issues. As appropriate, DDDS will provide education and training on implementing remediation activities.

Providers will have an opportunity to appeal any findings, observations, or other areas of noncompliance with HCBS Final Rule. Provider requests must be submitted in writing on company letter head to the assigned DDDS Quality Improvement Facilitator within 15 days of receiving the Report of Findings and note the following:

- The specific level or area of non-compliance in question
- Rationale why the provider believes the finding is inaccurate
- Evidence to justify the appeal request

Within 10 days of receiving the appeal the assigned Quality Improvement Facilitator will communicate the recommended course of action to the provider. If unsatisfied with the assigned Quality Improvement Facilitator's decision, the provider may appeal the decision to the DDDS Informal Dispute Team, whose members include the Director of Quality Improvement, the DDDS Waiver Manager, and a Regional Director of Quality Improvement, by filing an appeal. This appeal must include all information originally filed in the request, along with a copy of the assigned DDDS Quality Improvement Facilitator's decision and a statement of issues, facts, documentation and authority identifying why the decision should be reversed.

The Informal Dispute Team will issue a recommendation within 60 days of receiving all required or requested information to the DDDS Division Director. The DDDS Division Director shall identify the specific issues, rule on each issue, state the facts supporting each ruling, and cite any pertinent statutory or regulatory authority.

If the Authorized Provider is unsatisfied with the decision, they may request an administrative hearing that shall be consistent with the Administrative Procedures Act, 29, Del.C.10101.

### **Homes on the Grounds of a Public Institution**

Several years ago, before the HCBS Final Rule was promulgated, DDDS made a policy decision to get out of the business of providing direct residential services in competition with private providers. DDDS determined that its role should be as an oversight agency. Over the past several years, DDDS has reduced the census in state-operated homes and day habilitation settings by a combination of closing new referrals, natural attrition, and planned moves. Consumers have already been assisted by the DDDS case manager in selecting other providers/locations through a thoughtful, deliberate process. No one was rushed, and in all cases the needs and preferences of the waiver members and their families were solicited and honored. Many of the new residential sites they selected were closer to their guardians, families, and friends. The families were very pleased with these moves. DDDS described this process of natural attrition in Appendix D, sections 1 and 2 of its most recent waiver renewal that was effective July 1, 2014.

As of January 2015, two women remain in a waiver group home on the grounds of the Stockley Center, the State's only public ICF-IID facility. It is DDDS' intention to close this waiver residence. For this reason, the State does not intend to request heightened scrutiny. The women have intensive medical needs that require a specialized residence. A home is in the process of being built for these participants using the Universal design architecture (i.e. wider doorways, bigger bedrooms to accommodate medical equipment, etc.). The members have agreed to this setting. The new setting is under development on new property location that is compliant with HCB settings requirements (i.e. the property is not isolating in nature and allows for community integration). We are expecting a move-in date before the end of 2016. The new setting will be licensed by DLTCRP prior to being occupied and the provider chosen by the two waiver members will be surveyed prior to relocating the members to ensure compliance with all applicable HCB settings requirements.

### **Delaware Waiver Enrollees Residing in Other States**

Several DDDS waiver members are supported in residences in other states that were determined to best meet their specialized needs. Because those residences are governed under the licensing body of the state in which they are located, if that state has made a determination regarding compliance with the HCBS Final Rule, DDDS will accept the decision of that state, under the assumption that that state's process will have to meet CMS scrutiny. DDDS has begun the process of communicating with those states for this purpose.

### **Beneficiary Relocation**

For any beneficiaries who will require relocation, the State will ensure that the affected beneficiaries will have all the information and support they need to make informed choices about alternate settings. The State will also ensure that all the services and supports necessary will be in place at the time of relocation.

When transition to a new setting is required, DDDS will use the process described in Appendix D of its approved HCBS waiver application to assist waiver members in selecting waiver services and settings that will meet their needs. DDDS case managers will assist consumers in selecting other providers/locations through a thoughtful, deliberate process. Consideration will be given to elements of the home that may be important to the waiver member, such as proximity to guardians, families, friends, and community resources, availability of public transportation, and type of residence. Consideration will be given to support features that are necessary to ensure that the waiver member's needs will be met. As with any provider network, providers tend to develop specialty areas. Waiver members will be guided toward selecting providers who can best meet their needs, whatever they may be.

As noted in response to public comments in the September 17, 2015 update to the Plan, DHSS has no plans to remove any of the current services from the system. We are committed to supporting the needs and preferences of individuals within the requirements of the HCBS final regulations.

### Ongoing Monitoring

Monitoring of compliance with the HCBS Final Rule will occur long after the March 17, 2019, federal implementation date. The DDDS Office of Quality Improvement will be tasked with monitoring progress on CAPs and will also begin routine monitoring of compliance with the requirements of the HCBS Final Rule, effective July 1, 2016, using the new survey tool it has created. DDDS anticipates developing several strategies to monitor DDDS waiver provider settings for compliance with the HCBS Final Rule.

One important strategy will be to incorporate some of the HCBS Final Rule requirements in current licensing processes. Neighborhood group homes for people with intellectual disabilities, intensive behavior support and educational residence, and rest care homes in which residential habilitation is provided are the only three waiver settings that are required to be licensed by the Division of Long Term Care Residents Protection (DLTCRP). DLTCRP performs annual inspections of all licensed sites and enforces environmental home standards. These standards largely involve attributes of the physical plan in which the service is delivered, as opposed to addressing the experience of the individuals who are receiving the services. In addition to licensure regulations, which only cover some of the waiver service categories, DDDS has been working on a revised set of standards for waiver providers that incorporate the requirements from the HCBS Final Rule and also incorporate measures for member satisfaction. The new standards will be implemented on July 1, 2018. The DDDS standards will be a companion to the DLTCRP licensure requirements that are codified in regulation. DDDS and DLTCRP are in the process of developing a memorandum of understanding (MOU) that will clearly define the roles of each Division in monitoring these two types of waiver residences.

The DDDS OQI is responsible for monitoring compliance with the DDDS standards via two structured processes: a Quality Service Review (QSR) which is performed for a sample of waiver members and an annual site visit for all waiver providers providing residential or day services.

QSRs are performed for all waiver settings. As part of the QSR, each year DDDS selects a random sample of waiver members at the 95% confidence interval for which the provider(s) will be reviewed against the DDDS standards. The review also assesses the compliance of the DDDS case managers against requirements, as described in the approved waiver. The review is a 360 degree approach that includes interviews of the member, family members, guardian (where applicable), and staff. The interviewer asks probing questions to measure consumer satisfaction and provider compliance and addresses all aspects of the member's life, including such elements as choice of service and setting, the person-centered plan, service delivery, and community integration. This process includes a review of the member's electronic case record and the provider's policies and procedures. As part of the QSR, OQI staff performs an onsite visit to assess compliance with DDDS standards.

Annual site visits are also conducted for all providers of day and residential services. For Shared Living providers, the annual site visit is conducted by a DDDS Shared Living

**Coordinator assigned to each home. These visits primarily review provider systemic records and do not usually include the review of individual member records. Because not all DDDS providers are required to be licensed, the DDDS standards for the non-licensed providers include requirements related to the safety and appropriateness of the setting similar to the standards that are assessed and monitored by the state licensing agency.**

**If any deficiencies against the standards are discovered by either the QSR or the annual site visit, the party in question will have 10 days to complete a CAP. These plans must include the responsible party (who will correct this), completion dates, and a plan to monitor the citation to prevent this in the future. OQI staff will verify that the CAP is being implemented within 90 days using onsite visits, record monitoring, etc. Providers that do not implement the CAP or where compliance does not improve can be put on a 90-day probation period and risk losing their status as an Authorized Provider.**

**In addition to the reviews performed by the DDDS Office of Quality Improvement, the DDDS case managers are also charged with performing monthly monitoring of the person-centered plan. Once each quarter, this monitoring must be conducted face-to-face with the waiver member. This presents another opportunity for the Division to monitor ongoing provider compliance with the requirements of the Rule.**

### ***DSHP Demonstration Assessment and Remediation Plan***

#### **Phase 1: Development of survey instruments and processes to assess compliance with the Community Rule**

***Start Date: April 2015***

***End Date: July 2015***

DMMA will develop assessment tools to facilitate DMMA evaluation of State laws, regulations, policies, provider review of policies as well as assessment of HCBS and HCB settings that are under the DSHP demonstration. The CMS Exploratory questions for residential and non-residential settings will be incorporated into the survey instrument. To the extent possible, DMMA will leverage the approach and tools designed for the DDDS waiver. DMMA intends to use the same or a similar review instrument as DDDS to facilitate its review of any State laws, regulations, and policies particular to the DSHP Demonstration. The provider survey will take the form of a self-assessment.

DMMA will also work with the DSHP MCOs to design a survey instrument that the MCOs will use to assess their own policies, procedures, provider participation agreements, credentialing and re-credentialing standards, and other materials to ensure that there is nothing that would serve as a deterrent to fully integrated community care or is in contrast to the Community Rule. DMMA will work with the MCOs to identify the relevant polices that need to be reviewed and will establish criteria defining the parameters of the review, including what the review should entail and the timeframes for completion.

DMMA intends to develop the settings and services survey instruments for the DSHP demonstration using a 360-degree approach, obtaining feedback from both providers and participants receiving care as a means of validation. Requirements from the Community Rule and exploratory questions from the CMS toolkit will be used to help develop the surveys. The surveys will be modified, as appropriate, according to the provider and setting.

DMMA will consider using its External Quality Review Organization (EQRO) to develop the surveys. This task appears to be consistent with the validation and implementation survey protocols outlined in the CMS External Quality Review Protocols.

Regardless of the method used to develop the surveys, the tools will be reviewed by a broad range of stakeholders, including the DSHP MCOs and the cross-agency oversight body and the Governor's Commission on CBAID, prior to finalizing and distributing to providers and participants.

#### **Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with the Community Rule**

***Start Date: August 2015***

***End Date: January 2016***

## Delaware Statewide Transition Plan

---

### Assessment of State Laws, Regulations, Policies, etc.

In Phase II, DMMA will also undertake a review of applicable State laws, regulations and policies to determine compliance with the Community Rule. Many of the laws, regulations and policies that will be reviewed for the DDDS waiver will also fall under DMMA's review for the DSHP demonstration because they apply to both programs. Input will be sought from stakeholders, including the cross-agency oversight body and the Governor's Commission on CBAID, to determine any additional state laws, regulations and policies. The review process will include the following State, Department and Division documents and related practices, at a minimum:

- Delaware Code
  - Title 16, Chapter 1 - DHSS (licensure and certification)
  - Title 16, Chapter 11 - Nursing Facilities and Similar Facilities (Licensure by the State)
  - Title 16, Chapter 94 – Community Based Attendant Services
  - Title 24, Chapter 17 - Medical Practice Act (Medical Licensure and Discipline)
  - Title 25, Part III - Residential Landlord-Tenant Code
  - Title 31, Chapter 1 - DHSS (department authority)
  - Title 31, Chapter 5, Sections 503(b) and 505(3) - State Public Assistance Code (Medical Assistance)
- Delaware Administrative Code
  - Medicaid DSSM 20000 - Long Term Care (Home and Community Based Services)
  - Division of Long Term Care Residents Protection, various sections addressing licensure and certification of group home, assisted living facilities, etc.
  - Division of Public Health, Health Systems Protections, various sections addressing regulations and licensure of adult care facilities, home health agencies and aides
  - DSAMH: Sections 6001 and 6002 - Licensing Standards and Credentialing
- Other Policy Documents
  - Analyze current 1115 Special Terms and Conditions and MCO contracts to determine if revisions to program rules/policies and if amendments are needed to be in compliance with the Community Rule
  - Review of provider manual(s), including contracts/licensure provisions, to determine if revisions/updates are needed to be in compliance with the CFRs

Additional materials will be added to the review as they are identified. Similar to the DDDS waiver, a final report will be developed noting the extent to which for each requirement under the Community Rule the state has or does not have sufficient written guidance and processes to ensure compliance. Copies of the report will be provided to the cross-agency oversight body for review. In addition, copies of the report will be shared with stakeholder groups.

### MCO Self-Assessment of MCO Policies, etc.

The DSHP MCOs will use a tool developed in collaboration with DMMA to assess their own policies and procedures for compliance with the Community Rule. Prior to the review, DMMA will provide training to MCO staff on the elements of the Community Rule to ensure the MCOs have a solid understanding of the Rule and expectations when conducting their review. DMMA

## **Delaware Statewide Transition Plan**

---

will monitor the MCO's review for completeness and timeliness within established parameters and deadlines. Upon finishing their review, the MCOs will submit a final report to DMMA that details their findings.

### *Provider Self-Assessment of Provider Policies and Other Written Guidance and Provider Self-Assessment of HCB Services and Settings*

MCOs will play an important role in the survey process. DMMA will distribute the provider self-assessments to the DSHP MCOs for distribution to DSHP HCBS providers. MCO provider network lists will need to be coordinated in order to eliminate duplication. MCOs will distribute surveys to providers in accordance with prescribed parameters and timeframes.

The MCOs will develop and distribute educational materials for providers regarding the Community Rule and the self-assessment process. MCOs will also conduct provider training. MCO educational and training materials will be reviewed by DMMA and developed in accordance with specific criteria and with stakeholder feedback.

For the provider self-assessment of HCB services and settings, a help desk will be established to respond to provider questions about the survey and offer technical assistance to providers in completing the survey. This technical assistance will help troubleshoot problems in order to improve the accuracy of the self-assessment results.

DMMA will develop an acceptable response rate for the provider self-assessment. In order to increase the provider response rate, a process will be created to follow-up with providers failing to meet requested response timeframes. DMMA will also consider additional measures to increase the provider response rate such as the need for provider incentives.

DMMA is responsible for conducting the look-behind reviews. As determined appropriate, the Governor's Commission on CBAID will assist in conducting look-behind reviews of an appropriate sample of the providers who completed the self-assessment survey to validate the provider self-assessments. Look-behind reviews will include onsite visits. The Governor's Commission on CBAID will assist in developing the methodology for the look-behind reviews and the process for onsite visits.

### *Participant Survey*

DMMA will work with the MCOs to use the MCO DSHP-Plus case managers to assist participants in responding to the participant survey. The MCOs will distribute the surveys directly to participants, with instructions that the participant's case manager is available to assist if needed. Case managers will also be instructed to reach out to the participant during monitoring contacts to see whether the participant needs assistance with the survey and will follow up with participants regarding the status of completing surveys. DMMA will develop criteria in collaboration with the MCOs regarding the case manager's role in assisting the participant with the survey. The role of the MCO case manager is to facilitate the participant's completion of the survey, not to complete the survey instead of the participant.

## **Delaware Statewide Transition Plan**

---

In addition, DMMA will develop a valid sample response for case managers to help them understand what a complete survey should look like. The MCOs will be expected to train their case managers on the Community Rule, the participant assessment process, and their role as case managers, prior to distributing the survey to participants. DMMA and the cross-agency oversight body will review and approve the MCO's educational materials before the training occurs.

A system will be developed and implemented to collect, track, monitor and analyze surveys and responses. A help desk will be established to respond to case manager inquiries regarding the survey.

### **Phase 3: Use assessment results and other data sources to finalize inventory of services and settings vis-à-vis compliance with the Community Rule**

**Start Date: February 2016**

**End Date: March 2016**

An approach comparable to that described for the DDDS waiver will be used for the non-residential and residential HCB settings inventory. The results of the following data sources will be used to populate the inventory:

- Provider self-assessments;
- Participant survey; and
- MCOs policy assessment.

### **Phase 4: Develop remediation strategies to bring non-compliant services, settings, policies, etc. into compliance with the Community Rule**

**Start Date: April 2016**

**End Date: August 2016**

Remediation activities may occur at multiple levels: state, MCO and provider.

State level remediation activities may include but are not limited to:

- Revising state policies, laws, regulations;
- Developing new state policies, laws, regulations;
- Streamlining state operational and administrative processes; and
- Develop budget strategies to fund remediation as necessary.

There may be issues stemming from the inventory that will impact MCOs particularly in the event that issues are identified from the MCO assessment. MCO remediation measures may include but are not limited to:

- Corrective Action Plans;
- Revised MCO contract;
- Revised MCO policies; and
- Required revisions to MCO provider participation agreements.

## **Delaware Statewide Transition Plan**

---

Provider level remediation activities may include but are not limited to:

- Modifications to ensure greater participant choice and control; and
- Relocation of participants in the event a setting is unable to meet requirements.

### **Phase 5: Implement remediation strategies**

***Start Date: September 2016***

***End Date: March 17, 2019***

Any Corrective Action Plans and other remediation strategies identified in Phase 4 must be approved by DMMA and fully implemented by March 17, 2019 so that the entire HCB service delivery system will be compliant with the Community Rule.

The State will ensure that throughout the remediation phase, measures will be put in place to continuously monitor participant health and welfare and the quality of care. Case managers, MCOs, State staff and stakeholders will be engaged in this activity.

As noted previously for the DDDS waiver, in the event that a provider is initially determined not to meet all appropriate HCBS requirements, participants will have the choice of continuing to receive services from the provider while the provider implements corrective action to bring the setting into compliance. Relocation processes will be tailored to each individual with full participation of the individual and his/her family/caregiver. MCOs will be held accountable to work with the individual and his/her family/caregiver and provider (existing and new), etc. to develop a smooth transition process that will ensure continuity of care and protect the health and welfare of the participant throughout the process. The individual's plan of care will be updated accordingly.

### **Phase 6: Monitor ongoing compliance**

***Start Date: September 2016***

***End Date: Ongoing***

Compliance monitoring may also include monitoring MCO performance. Activities such as analysis of MCO reports, analysis of provider appeals, analysis of MCO member requests for fair hearings, monitoring participant complaints and additional stakeholder meetings will be considered for monitoring activities.

***Matrix of DSHP Demonstration Action Items Organized by Major Categories of the Requirements of the Community Rule***

This section of the Plan organizes the activities for the DSHP demonstration by the major categories of requirements under the Community Rule:

- Broad Stakeholder Involvement in the Development of the Plan.
- State systemic review of policy/procedure/provider qualification standards and MCO policies and procedures review.
- Evaluate individual HCB settings.
- Ongoing monitoring.

**DSHP Transition Plan Elements Organized by HCBS Final Rule Compliance Area**

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
<b>Section 1: Broad Stakeholder Involvement in the Development of the Transition Plan</b>				
Convene the cross-agency oversight body.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative			Completed
Hold meetings of the cross-agency oversight body. Initial agenda topics include: providing an overview of the Community Rule and soliciting input into the approach for development of the draft Statewide Transition Plan.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative		January 2015	Ongoing
Provide copy of draft Statewide Transition Plan to DHSS Secretary's office for review to ensure alignment with broader Delaware HCBS goals and objectives.	DMMA, DHSS Secretary's office			Completed
Publish Statewide Transition Plan for public comment (newspaper and DMMA).	DMMA	Newspaper, DMMA website	2/6/15	2/6/15 Completed

**Delaware Statewide Transition Plan**

---

<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
Public Hearing (New Castle County).	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	2/23/15	2/23/15 Completed
Public Hearing (Kent County).	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	2/27/15	2/27/15 Completed
Review, incorporate and respond to public comments on the draft Statewide Transition Plan. Summarize the comments received and the frequency for each type of comment. Post the comments and how they were used in the draft Statewide Transition Plan.	DMMA			Completed

**Delaware Statewide Transition Plan**

---

<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
Create a “parking lot” of any issues that come up during the development or implementation of the Statewide Transition Plan that are outside of the scope of the Plan.	DMMA		3/9/15	Ongoing
<b>Public Hearing (New Castle County)</b>	DMMA	<b>Broad range of stakeholders will be invited to participate including but not limited to:</b> <b>Delaware Association of Homes and Services for the Aging</b> <b>Nursing Home Residents Quality Commission</b> <b>Easter Seals</b> <b>Legal Services</b> <b>United Way of Delaware</b> <b>Eldercare</b> <b>Individual providers</b>	8/28/15	8/28/15 Completed
<b>Public Hearing (Kent County)</b>	DMMA	<b>Broad range of stakeholders will be invited to participate including but not limited to:</b> <b>Delaware Association of Homes and Services for the Aging</b> <b>Nursing Home Residents Quality Commission</b> <b>Easter Seals</b> <b>Legal Services</b> <b>United Way of Delaware</b> <b>Eldercare</b> <b>Individual providers</b>	8/24/15	8/24/15 Completed

**Delaware Statewide Transition Plan**

---

<b>Action Item/Approach to Assess Compliance</b>	<b>State Resources</b>	<b>Stakeholder Resources</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>
Public Hearing (Sussex County)	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	8/28/15	8/28/15 Completed
Public Hearing (New Castle County)	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	3/4/16	3/4/16 Completed
Public Hearing (Kent County)	DMMA	Broad range of stakeholders will be invited to participate including but not limited	3/7/16	3/7/16 Completed

**Delaware Statewide Transition Plan**

---

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
		to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers		
Public Hearing (Sussex County)	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	3/7/16	3/7/16 Completed
Public comment period on updates to the Transition Plan to include results of site-specific assessments.	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging	7/18/2016	8/29/2016

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
		Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers		
Update the status of the CMS-approved Statewide Transition Plan on the DMMA website.	DMMA		CMS approval of Plan	Unknown
<b>Section 2: State Systemic Review of Policy/Procedure/Provider Qualification Standards Review</b>				
Establish oversight body to monitor the assessment process.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative			Completed
Establish the Governor's Commission on CBAID as an advisory body for the assessment process.	DMMA	Governor's Commission on CBAID	2/23/15	2/23/15 Completed
Governor's Commission on CBAID to create charter to define their role and protocols for how they will operate (i.e., reporting structures and timeframes).	DMMA	Governor's Commission on CBAID	2/23/15	3/20/15 Completed
Identify HUD Homes and any financial or other terms that impact compliance.	Lottie Lee (DHSS Housing Coordinator) DLTCRP	Delaware Healthcare Facilities Association	2/23/15	4/3/15 Completed
Conduct review of Delaware landlord/tenant code vis-à-vis the Rule.	Delaware Housing Authority	Delaware Healthcare Facilities Association	2/23/15	4/3/15 Completed

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Develop survey instruments for providers to self-assess their policies, procedures, etc. against the Rule. Develop tool to assess State laws, regulations, codes, policies, etc. for compliance with the Rule. Work with DSHP MCOs to develop tool for MCOs to review compliance of their policies and procedures with the Rule.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID; research should be conducted on tools that other states may have already developed	4/1/15	5/31/15 Completed
Use survey tool to assess State policies, procedures, etc. against the Rule to determine whether policies, etc. are compliant with the Rule or whether there are gaps. Develop inventory of results.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	5/3/1/15	9/17/15 Completed
Present MCO policy and procedure survey tool to MCOs and provide training to MCO staff on the requirements of the Rule and on the assessment process.	DMMA	Governor's Commission on CBAID	8/1/15	8/15/15 Completed
Providers use the survey tool to assess their policies, procedures, etc. against the Rule. Providers develop/submit Corrective Action Plan (CAP) to correct non-compliant policies, etc. DMMA must approve the CAP within 30 days of submission to DMMA.	DMMA	Providers	9/1/15	1/1/16 <b>Completed</b>
MCOs review their policies and internal procedures to determine compliance with the Community Rule; As part of the self-assessment response, MCOs will be required to submit a corrective action plan for any policies or procedures deemed not to be fully compliant.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	9/1/15	10/31/15 <b>Completed</b>
Conduct review of MCO self-assessment results re: their policies and procedures and remediation strategies.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	9/1/15	1/31/16 <b>Completed</b>
Desk review of provider self-assessment results re: their policies and procedures and remediation	DMMA, DSAAPD representative, DDDS	Governor's Commission on CBAID	2/1/16	3/1/16 <b>Completed</b>

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
strategies.	representative, DSAMH representative, DLTCRP representative			
Conduct a full “look-behind” review of a sample of the provider self-assessments of their policies and procedures.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor’s Commission on CBAID	3/1/16	3/31/16 <b>Completed</b>
DMMA will develop remediation strategies for any State laws, regulations, policies, etc. that are found not fully compliant.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative; MCOs	Governor’s Commission on CBAID	4/1/16	7/31/16
Conduct systemic assessment evaluate laws, policies, standards, etc. against HCBS Final Rule.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative		8/1/15	9/30/15 Completed
Evaluate current service definitions against the requirements of the Community Rule.	DMMA staff		8/1/15	9/30/15 Completed
<b>Remediation:</b>				
Create explanation in plain language of tenant rights to be given to all HCBS members that reside in provider-owned or leased properties.	Committee of DDDS, DMMA, DMS and DSAPPD staff	Governor’s Commission on CBAID	5/1/15	6/30/15 Completed
MCOs make any necessary changes to any non-compliant policies (must be reviewed and approved by DMMA).	DMMA	MCOs	9/1/16	11/30/16

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
State makes any necessary changes to State policies, procedures, laws, regulations, etc.	Appropriate state agency	Public input will be sought for regulatory changes via the Delaware Register of Regulations	9/1/16	1/31/17 <b>*Any changes requiring legislative action must be implemented by 3/17/19</b>
Providers make any changes to any non-compliant policies, procedures, laws, regulations, etc. Changes must be approved by DMMA.	DMMA	Providers	9/1/15	6/30/16
As necessary, develop a demonstration amendment to revise any service definitions and submit amendment to CMS. Work with CMS toward approval of the amendment.	DMMA	Public input will be sought for changes to the waiver via established protocols	Within 9 months of CMS approval of the Plan	
Revise the DMAP provider manual for changes to waiver service definitions as necessary.	DMMA		After approval by CMS	
Evaluate any current DMMA required training, including materials and curriculum, against the Community Rule.	DMMA	Governor's Commission on CBAID	2/1/15	3/31/15 <b>Completed</b>
Evaluate current MCO required training, including materials and curriculum against the Rule.	DMMA	Governor's Commission on CBAID; MCOs	10/1/15	12/1/15 <b>Completed</b>
DMMA makes any necessary changes to training materials and/or curriculum to ensure compliance.	DMMA	Governor's Commission on CBAID	4/1/15	6/30/15 Completed
<b>Section 3: Evaluate Individual HCB Settings</b>				
Identify residential sites covered under HCBS that are PRESUMED NOT to be community based (e.g., Stockley).	DMMA	Governor's Commission on CBAID will assist DMMA	4/1/15	4/30/15 Completed

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Identify residential sites (including out of state) paid for with DSHP/demonstration funds that are likely NOT to be community based.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID will assist DMMA	4/1/15	9/30/15 <b>Completed</b>
Develop a provider self-assessment tool for residential providers/sites.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	DMMA will look to see if the EQRO can assist in this task with feedback from the Governor's Commission on CBAID; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15 Completed
Develop a provider self-assessment tool for non-residential providers/sites.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	DMMA will look to see if the EQRO can assist in this task with feedback from the Governor's Commission on CBAID; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15 Completed
Do a pilot with selected providers to work out the bugs of the survey instrument.	DMMA	Providers	7/7/31	7/21/15 Completed
Analyze results of pilot and make corrections to the survey instrument and develop a training curriculum.	DMMA		7/21/15	7/31/15 Completed

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Develop a participant survey tool.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	DMMA will look to see if the EQRO can assist in this task with feedback from the Governor's Commission on CBAID; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15 Completed
Train MCOs and MCO case managers on how to use the participant survey.	DMMA	MCOs Case managers	8/18/15	8/18/15 Completed
Train MCOs on provider self-assessment.	DMMA	MCOs	8/10/15	8/10/15 Completed
Implementation of assessment: Residential and non-residential providers take the self-assessment, and MCO case managers assist participants with the participant survey.	MCOs Case managers	Residential and non-residential providers	9/1/15	1/1/16 <b>Completed</b>
<b>Conduct onsite look-behind reviews of all providers.</b>	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative		<b>3/1/16</b>	<b>3/31/16 Completed</b>
Collect, analyze and evaluate provider self-assessment and participant survey responses and develop report.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	EQRO if contracted for work; Governor's Commission on CBAID	<b>1/6/16</b>	<b>1/15/16 Completed</b>
<b>Remediation:</b>				
<b>Transition remaining two waiver members off the Stockley ICF-IID grounds. A new home is being built to meet their specific needs.</b>	DMMA	MCOs Providers	6/1/14	<b>12/31/16</b>
<b>DMMA sends CAP requests to MCOs.</b>	<b>DMMA</b>	<b>MCOs</b>	<b>2/5/16</b>	<b>2/5/16 Completed</b>

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
MCO CAPs due to DMMA (30 days following receipt of DMMA notice).	DMMA	MCOs	3/7/16	3/11/16 Completed
DMMA monitors implementation of MCO CAPs.	DMMA	MCOs	3/7/16	7/31/18
Provider report cards issued.	DMMA	Providers	1/12/16	1/12/16 Completed
Issue report of findings to providers following onsite review.	DMMA	Providers	3/31/16	4/30/16
Providers submit CAP to DMMA (30 days following receipt of DMMA notice).	DMMA	Providers	4/30/16	5/31/16
DMMA monitors implementation of provider CAPs.	DMMA	Providers	4/30/16	7/31/18
Review rates for adequacy to support the requirements of the Rule (especially related to smaller staffing ratios in the day programs).	DMMA		7/31/16	9/30/16
Include a budget strategy related to any necessary changes to rates.	DMMA		Prepare for FY18 budget	
Develop process for providers to dispute findings.	DMMA		3/15/16	3/31/16
<b>Section 4: Ongoing Monitoring</b>				
As appropriate, DMMA implements new training and evaluates effectiveness.	DMMA		7/1/15 Initial training completed. Additional training will occur ongoing as determined necessary.	Ongoing
Offer training and technical assistance to providers in best practices for developing remediation processes	DMMA		4/30/16	Ongoing
Offer training and education to stakeholders	DMMA		9/1/15	Ongoing

## Delaware Statewide Transition Plan

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Develop and implement provider monitoring tool	DMMA		7/1/16	Ongoing
<b>Remediation:</b>				
<b>Development of initial ongoing monitoring process and tools.</b>	<b>DMMA</b>		<b>1/15/16</b>	<b>9/30/16</b>
Develop ongoing monitoring tools and practices.	DMMA	Governor's Commission on CBAID; MCOs	7/1/15	Ongoing
DMMA makes any necessary changes to MCO contracts.	DMMA	MCOs	9/1/16	11/30/16
MCOs make any necessary changes to required trainings (including materials and/or curriculum) to ensure compliance. DMMA must approve changes.	DMMA	MCOs	4/1/15	Ongoing
MCOs implement new curriculum and evaluate effectiveness, as appropriate.	DMMA	Governor's Commission on CBAID; MCOs	7/1/15	Ongoing
Implement new MCO contract requirements, as appropriate.	DMMA	MCOs	Ongoing	Ongoing
Implement and monitor quality improvement and CAPs, as appropriate.	DMMA	Providers; MCOs	Ongoing	Ongoing

### *July 2015 Update to DSHP Demonstration and Remediation Plan*

#### State Self-Assessment Results

The results of the DMMA review of applicable state laws, regulations and policies are included as new Attachment 3. The attachment is presented as a matrix that provides an overview of the extent to which current state laws, regulations and policies are compliant with the Community Rule final requirements, using the CMS exploratory questions as guidelines for the compliance review. Specifically the matrix notes:

- The specific state document reviewed to determine compliance;
- Identified gaps, if any; and
- Recommended steps for remediation, including development of new policy.

The implementation of all remediation activities will begin by no later than November 2016.

#### Surveys

DMMA leveraged its EQRO to assist in developing the MCO, participant and provider surveys for the DSHP demonstration evaluation. A workgroup of staff representing DMMA, DSAAPD and DSAMH was convened to serve as the team to lift the survey development work and to guide the efforts of the EQRO. The workgroup met on a weekly basis to discuss the strategy for survey development, identify and resolve issues and discuss draft survey questions. The workgroup drew upon the CMS requirements and guidance, surveys from other state programs and knowledge of the DE system of care to develop five survey tools: one residential provider survey, one day services provider survey, one residential participant survey, one day services participant survey and one MCO survey on policies and procedures.

As a result of the workgroup's deliberations and commitment to the process, DMMA was able to make modifications to the initial survey design approach. These modifications include the following:

- Combining the questions pertaining to provider settings and provider policies and procedures into a single, comprehensive survey.
- Developing comparable survey questions for the residential and day services participant and provider surveys to allow for a one-to-one comparison of responses.

DMMA launched a pilot of the provider surveys on July 7. DMMA randomly selected nine providers (three from each county) to participate in the pilot, to allow for an equal distribution of small, medium and large providers in each county. The goal is to use this pilot period to test the validity of the surveys.

In order to ensure broad stakeholder engagement and feedback in the survey development process, the cross-agency oversight body and the Governor's Commission on CBAID are also providing review of the provider surveys and the participant surveys. The results of the pilot survey, the feedback from the cross-agency oversight body and the feedback from the Governor's Commission on CBAID will enable DMMA to make modifications to the provider and member surveys prior to statewide distribution, targeted for September 1, 2015.

## Delaware Statewide Transition Plan

---

The MCO survey on policies and procedures is undergoing review by the MCOs, Governor's Commission on CBAID and the cross-agency oversight body. The target launch date for this survey is September 1, 2015. Once finalized, copies of the survey instruments will be made available to the public for general information.

### Training

Training has been a significant component of implementation activities. Multiple training initiatives have been implemented in order to ensure that stakeholders fully understand the Plan and their role in implementation. The following represents the training opportunities to date:

Audience	Purpose of Training	Date
DSHP MCOs	Introduction to the Community Rule and Delaware HCBS Transition Plan	June 9, 2015
DMMA Staff	Introduction to the Community Rule and Delaware HCBS Transition Plan	July 7, 2015
DSHP HCBS Providers	Orientation to the pilot survey	Week of July 6, 2015
DSHP MCOs	Comprehensive training on MCO roles moving forward regarding member and provider surveys	August 10, 2015
DSHP MCO Case Managers	Role of case managers in the participant survey process	August 18, 2015
DSHP HCBS Providers	Orientation to the provider survey	TBD

As Delaware continues to implement the Plan, DMMA will continue to identify training needs and develop and implement training resources accordingly.

DMMA has also completed an evaluation of current required training for DMMA staff, including materials and curriculum, against the Community Rule. The purpose of this evaluation was to ensure that DMMA staff training does not present a contradiction to the requirements of the Community Rule, and is accurate and complete.

To conduct the evaluation, DMMA staff familiar with the Community Rule and Delaware's Statewide Transition Plan reviewed existing curricula and materials used for both initial and ongoing staff training. This evaluation revealed that DMMA provides new employee training on topics related to DMMA organization, workflows, policies and structure as well as systems. Additional new employee training specific to an employee's job functions is provided on-the-job in the form of mentoring and more informal learning from colleagues. Ongoing staff training is ad hoc and specific to an identified need in a particular area.

The evaluation of current staff training curricula and materials showed that DMMA does not currently have initial or ongoing staff training materials on topics related to the Community Rule. Thus, because current staff training materials are unrelated to the Community Rule, no modifications to these materials are needed at this time.

## Delaware Statewide Transition Plan

---

However, the evaluation revealed a gap in training specifically related to the Community Rule, its requirements, and Delaware's plan to bring its system into compliance by 2019. To begin to address this training gap, DMMA has developed an introductory staff training presentation on the Community Rule and Delaware's Transition Plan. The purpose of this training is to provide staff with a high-level understanding of the Community Rule and the Plan so that staff can be oriented to these topics and answer questions they may receive from stakeholders (e.g., MCOs, providers, etc.).

DMMA began to implement this introductory training in July 2015 during two training sessions with key staff whose job functions are directly related to DSHP waiver operations, such as program integrity, policy, quality and medical management. DMMA will continue to roll out this introductory training to additional DMMA staff.

Moving forward, DMMA will continue to develop and implement additional staff training materials and resources as needed to orient DMMA staff to the Community Rule and the Plan. For example, a list of the questions addressed during the initial training sessions were developed and will be made available as an additional resource for staff. As future phases of the Plan are implemented, DMMA will identify the need for staff training and develop training materials accordingly.

### Other

DMMA has continued to engage stakeholders in meaningful discussions regarding implementation of the Plan, issues of concern and impact on service delivery. The following represents some of the stakeholder engagement activities that have occurred since March 2015:

- Presentations at meetings of stakeholder groups;
- Development of a presentation in conjunction with DDDS for National Association of Councils on Developmental Disabilities 2015 Annual Conference;
- Launched a dedicated page on DMMA's website specifically related to the Plan. Posted a copy of the Plan, responses to frequently asked questions received from Delaware stakeholders, and links to other helpful resources;
- Updates to the Medical Care Advisory Committee;
- Public hearings on the Plan; and
- Launched social media campaign (i.e. facebook and twitter).

## ***February 2016 Update to DSHP Demonstration and Remediation Plan***

### **State Systemic Assessment**

In response to CMS concerns, DMMA developed a second matrix comparing relevant state law, regulation, policy, etc. to the HCB settings requirements (Attachment 6). DMMA staff systematically compared each relevant state law, regulation, policy, etc. to each HCB settings requirement, noting if the governing document: addressed the requirement, was silent, or did not address the requirement. The matrix is largely duplicative of our initial matrix (Attachment 3) but differs in that it is organized by provider setting.

As a result of our partnership with MCOs in implementing DSHP-Plus, DMMA relies heavily on the MCO contract as a governing document for program administration. This is reflected in the matrix.

### **Provider Settings Assessment Process**

DMMA worked with a cross agency work group to develop the MCO self-assessment, the provider self-assessment and the member survey. The following provider settings/services were reviewed for compliance:

- Assisted living facilities
- Day habilitation providers
- Adult day settings

### **MCO Assessment – Survey and Results**

#### **Methodology**

To complete the assessment process, DMMA reviewed its DSHP MCOs, Highmark and United. The MCOs received a self-assessment on September 3, 2015. On August 18, 2015 DMMA conducted onsite meetings with both MCOs to review the self-assessment and answer questions. The MCOs had two months to complete the self-assessment; responses to the self-assessment were received from both MCOs by October 30, 2015. A copy of the MCO self-assessment is included as Attachment 8.

The self-assessment consisted of 31 Yes/No questions designed to assess MCO compliance with the HCBS Final Rule in the following areas: person-centered planning, development of person-centered service plans, member rights, HCB settings requirements, staff training, and development/review of policies and procedures.

For each question, MCOs were asked to:

1. Document if the MCO met the requirement stated in the question by indicating Yes or No for each question.
2. If the MCO met the requirement (Yes), provide a description of how the requirement is met and cite current policies and procedures on file that support the MCO's compliance with the requirement.

3. If the requirement was not met (No), provide a description of the remediation activities needed to bring the MCO's policies and procedures into compliance, as well as anticipated timeframes for these activities.

### Results

In general, MCOs reported the highest compliance with the HCBS Final Rule in the areas of member rights, person-centered planning, and development of person-centered service plans. MCOs reported the lowest compliance in the areas of HCB settings requirements and staff training. For both MCOs, the results revealed that there is an opportunity to make improvements to their practices, policies, and procedures to support compliance with the HCBS Final Rule.

DMMA's review of MCO responses noted several issues with the MCOs' completion of the self-assessment that generated the need to ask follow-up questions of each MCO to seek clarification and additional information. DMMA met with each of the MCOs on December 21, 2015 to discuss the results of the self-assessment and the follow-up questions. Both MCOs submitted their responses to the follow-up questions by December 31, 2015.

### Remediation

Following review of the MCO responses to the follow-up questions, DMMA notified the MCOs of the need for a CAP. MCOs had 30 days from the date of DMMA notification to submit a CAP. The key elements addressed in the CAP include:

- The specific non-compliant issue(s).
- Corrective actions to be taken to ameliorate the non-compliant issue.
- Dates by which the actions will be taken and the person responsible for each action.
- The strategy that will be employed to monitor progress toward coming into compliance.
- Strategy for continuous monitoring to ensure continued compliance.

DMMA had 30 days from date of receipt to review MCO CAPs and respond with either approval or request for modification/additional information. Currently, DMMA is working with the MCOs to finalize the CAPs. Moving forward, MCOs will submit quarterly reports to DMMA on the status of CAP implementation. All CAPs will be completed by July 31, 2018.

### Provider/Member Survey and Results

The provider and member surveys were launched September 2, 2015 and closed December 31, 2015. The provider survey closed November 30, 2015. The member survey closed December 31, 2015. In order to facilitate a reliable comparison between provider and member responses, for every provider survey question a comparable member survey question was developed. Each provider and member completing the survey was

assigned a unique identifier. A copy of the provider/member instruments are included as Attachment 8.

The surveys were developed as web-based tools. However, in instances where online access was not available, a paper copy of the survey was made available to both providers and members. DMMA hosted webinar training sessions for providers on August 31, 2015 and September 2, 2015 to provide guidance on the HCBS Final Rule requirements, to orient providers on the Plan, and to walk through the web-based survey tool.

As noted previously, MCO case managers assisted members in completing the member survey. On August 10, 2015 and August 18, 2015, DMMA provided training to key MCO staff and MCO case managers on the member survey. Over the course of the next three months, MCOs reported weekly to DMMA to monitor the status of the member surveys. DMMA also conducted bi-weekly meetings with each MCO to discuss the reports, discuss any obstacles/concerns, and to address any reoccurring issues. Additionally, a provider-specific help desk email and telephone number were made available throughout the survey period to provide assistance and address questions that arose in completing the surveys.

On a weekly basis, DMMA tracked provider and member responses, as well as survey completion metrics. Throughout October and the first two weeks of November 2015, DMMA used a series of email campaigns and individualized telephone consultations to maximize provider responses to the survey.

The following provides a high-level overview of the survey methodology and results. Details regarding the survey results are included as Attachment 8. It is important to note that the provider and member surveys are the initial phase of the provider setting assessment process. While these processes will yield important information that will provide guidance in terms of next steps, this information is preliminary. Additional assessment activities, such as onsite provider validation reviews, will be important in order to obtain a complete picture of the appropriateness and adequacy of provider settings.

### Methodology

DMMA identified a universe of HCBS providers needing to complete the survey that was composed of providers currently providing HCBS to DSHP-Plus members. The MCOs used current claims data to identify current providers and enrolled members who were receiving HCBS, as well as the settings where the HCBS were rendered. Twenty-eight unique current providers and 388 unique members were identified and received the survey. In developing the current provider list, no members were identified as receiving respite services in assisted living settings. Members who received respite services received the services in their own home. As a result, no respite providers were included in the survey. Therefore, the following provider settings were surveyed: assisted living, adult day services, and day habilitation services.

Providers were asked to complete a survey for every HCBS provided and for every setting in which services are provided. Provider participation was mandatory in order to continue providing and receiving reimbursement for HCBS. On November 23, 2015, DMMA sent a reminder letter to providers, via email, regarding timely completion of the provider survey and the consequences for failing to do so (i.e. exclusion from future participation in the HCBS program).

Members were encouraged to complete a survey for each HCBS received, but were directed that they only needed to complete one survey per provider.

The survey questions were organized according to five categories:

1. **Choice of Setting or Choice of Residence** – HCBS members’ autonomy in selecting his/her setting.
2. **Community Access and Integration** – HCBS members’ access to and use of community services and integration into the community.
3. **Living Space or Characteristics of the Setting** – Living space or physical space at the residence/service setting.
4. **Staff Interactions and Privacy** – HCBS members’ experiences with staff members of the residence/setting and privacy issues.
5. **Services and Supports** – HCBS members’ experiences with services.

Additionally, providers were prompted to respond to 11 questions regarding their policies and procedures.

The survey used two types of questions:

- **Yes/No questions** asked whether a characteristic of the service setting, a service, or an experience occurs or is available to members (for example, if public transportation is available near a home). In addition to Yes/No, the respondent may select “Not Applicable” (N/A) or “Do Not Know”.
  - **Yes** – The characteristic, service, or experience does occur or is available.
  - **No** – The characteristic, service, or experience does not occur or is not available.
  - **N/A** – The question is not applicable.
  - **Do Not Know** – The respondent does not know the answer.
- **Frequency questions** require the respondent to indicate how often an event, service, or experience occurs. In addition, the respondent may select “N/A” or Do Not Know.
  - **Always** – The characteristic, service, or experience always occurs.
  - **Most of the Time** – The characteristic, service, or experience occurs most of the time or occurs.
  - **Some of the Time** – The characteristic, service, or experience sometimes occurs but does not occur frequently.
  - **Never** – The characteristic, service, or experience never occurs.
  - **N/A** – The question is not applicable.
  - **Do Not Know** – The respondent does not know the answer.

Additionally, both providers and members had the opportunity to provide written statements about their HCB setting at the end of the survey.

Overall response scores were calculated based on member/provider actual scores out of the maximum available scores for a particular service and/or service category.

DMMA will generate a provider report card for each service in the survey for which a provider completed a survey. The report card will display, for each provider of a service, a question-by-question comparison of the provider's response to the average of all provider responses and aggregated member responses of the same setting. The report cards will be used as an additional resource to help prioritize look-behind reviews and the issues addressed during the review. In addition, DMMA will use the provider report cards to share feedback to providers prior to the onsite reviews described in the next section.

**High Level Summary of Provider and Member Responses**

The following summarizes the overall findings and observations regarding the survey results for all services.

Overall response rates:

- Of the 28 HCBS providers who were required to complete the survey, all 28 providers completed the survey, yielding an overall provider response rate of 100%.
- Of the 388 HCBS members who were contacted to complete a survey, 333 HCBS members completed a survey, yielding an overall member response rate of 85.8%.

Overall for all provider settings and review categories, providers in all three service settings reported a high rate of consistency with the requirements of the Final Rule, as measured in the survey. The answers to the survey reflected that overall, providers believe the settings in which they deliver services are consistent with the CMS Final Rule and other guidance issued by CMS regarding HCB setting requirements. However, when compared to member responses for the same settings, members typically did not report as high a rate of consistency with the requirements of the Final Rule, as measured in the survey.

The following table summarizes the overall compliance scores for all providers and members for each setting. The overall compliance score represents the total scores for all providers of each setting, divided by the maximum possible score. The "difference" column reflects the percentage difference between the provider and member scores.

Overall Compliance Scores		
Setting Type	Provider Score	Member Score
Assisted Living Facility	92.4%	81.7%
Adult Day Services	91.7%	88.7%
Day Habilitation	90.6%	88.2%

The largest degree of variance (as illustrated above) between provider and member overall compliance scores were identified at assisted living facility settings. Both providers and members reported overall high compliance for the other two setting types (adult day services and day habilitation).

In terms of HCB setting provider policy and procedures, all providers of each setting reported a high rate of consistency for expected policies and procedures as measured in the survey, with an overall compliance score of 98.5%.

### Desk Review

A desk review will be conducted for all providers. The desk review will determine prioritization for the onsite look-behind reviews.

The desk review will consist of a review of each provider's survey responses and the corresponding member survey responses for members served by that provider. For each of the five categories in the survey, the provider score for each question will be compared to the average score for all members receiving services from that provider. In addition to the provider report card described above, the desk review will generate a provider ranking report. This analysis will evaluate any differences between provider and member responses and the extent of the variation. Providers will then be ranked based on three factors (1) the overall compliance score of the provider, (2) the degree of variance from corresponding member scores, and (3) provider and member responses to specific responses regarding community access and integration. Providers who score more than 25% lower than members or have low compliance scores regarding community access and integration will be noted as a priority in conducting onsite look-behind reviews.

CMS has identified five "buckets" that settings should be sorted into based on survey results. The five buckets are as follows:

- Bucket 1 – Setting is compliant.
- Bucket 2 – Setting will be made compliant with remediation.
- Bucket 3 – Setting cannot be made compliant and must be removed from HCBS program.
- Bucket 4 – Setting is presumptively non-HCBS.
- Bucket 5 – Setting is institutional.

The desk review analysis will serve to preliminarily categorize providers into one of the following look-behind categories (which are aligned with the buckets identified in CMS guidance). Note that institutional settings were not included in the universe of providers taking the survey, so Delaware has not created a category that aligns with CMS bucket 5.

- Category 1: Setting is likely compliant (CMS bucket 1).
  - Providers who achieve a compliance score of 90% or higher and have all required policies and procedures.

- **Category 2: Setting is likely non-compliant (CMS buckets 2 and 3).**
  - Providers who achieve a compliance score of 89.9% or below. In addition, providers with an overall compliance score that is 25% lower than corresponding members will be placed in this bucket.
  - Providers who indicated in their survey that any of their policies and procedures are not consistent with the Final Rule.
- **Category 3: Setting is presumed non-HCB (CMS bucket 4).**
  - Any setting that is noted, by either provider or member responses, as on the grounds of or adjacent to a nursing facility or other institution.
  - Providers who achieve a compliance score of 89.9% or below on the community access and integration service category.
  - Providers in this category will be subject to heightened scrutiny review.

Final decisions regarding bucketing will occur following onsite reviews.

### Onsite Reviews

Onsite reviews were conducted between March 1, 2016 and March 17, 2016. The onsite reviews were conducted by DMMA nursing reviewers. The team's expertise in conducting provider onsite reviews was leveraged throughout the process, including designing the approach and developing the onsite review tool. Prior to conducting the onsite reviews, the team was trained extensively on the HCBS Final Rule requirements and expectations regarding the objectives and goals of the onsite review process.

A standardized tool was developed for the onsite reviews. As appropriate, the tool was supplemented for each provider setting with specific issues to address as identified from the desk review of provider/member survey responses. Provider policies and procedures were reviewed prior to the onsite reviews.

Approximately three weeks prior to the onsite reviews, providers were notified about the pending onsite reviews, informed of the general timeframes of the reviews, and were provided guidance regarding the process and expectations. However, providers were not informed of the specific date and time of their review.

The results of the onsite reviews are currently being assessed in order to determine appropriate next steps and the compliance findings for each provider setting. Provider onsite review findings will be shared with CBAID.

### Remediation

DMMA will make final decisions regarding categorization of settings using the results of the onsite reviews. The following remediation activities will be implemented for each bucket.

- Settings that fall into Category 1 (setting is compliant) will be monitored on an ongoing basis to ensure continued compliance with all applicable federal requirements.

- **Settings that fall into Category 2 (setting is likely non-compliant but can be made compliant with remediation) will be notified of the need to develop a CAP and appropriate next steps. Following the onsite review, DMMA will notify providers of the need to develop a CAP and the identified issues to be addressed. Providers will have 30 days to develop a CAP following receipt of DMMA's written notification. The CAP must provide sufficient details regarding the following key elements:**
  - **The specific non-compliant issue(s).**
  - **Corrective actions to be taken to ameliorate the non-compliant issue.**
  - **Dates by which the actions will be taken and the person responsible for each action.**
  - **The strategy that will be employed to monitor progress toward coming into compliance.**
  - **Strategy for continuous monitoring to ensure continued compliance.**

**DMMA will have 30 days from the date of receipt to review the CAP and notify the provider of approval or the need for additional information. On a monthly basis, providers will submit a report to DMMA on the status of implementing the CAP. DMMA will review monthly provider CAP implementation reports and will follow up with providers as needed if any concerns are noted regarding the provider's progress in implementing remediation strategies. Providers unable to successfully address identified issues within prescribed timeframes will be removed from the HCBS program.**

**We believe that in the majority of cases, settings that fall into Bucket 3 (unable to come into compliance) will not be known until corrective action measures have been attempted and failed. After this point, providers will receive notification of removal from the HCBS program.**

**Settings that fall into Category 3 (presumptively non-HCBS), given that sufficient documentation can be provided, will be submitted to CMS for heightened scrutiny.**

**CMS has required that states have remediation activities in place prior to the March 17, 2019 deadline to ensure that remediation activities are appropriate and successful. Therefore, all provider CAPs must be completed on or before July 31, 2018. This is a check point. DMMA believes that this timeframe is sufficient to allow providers to address identified issues. As appropriate, DMMA will provide education and training on implementing remediation activities.**

**Providers will have an opportunity to dispute findings. DMMA will notify providers of the opportunity and process in the provider-specific report of findings. The notification will include key elements of the dispute process including: how a dispute can be communicated to DMMA; information to be included in request and format for request; point of contact for submission; and timeframes. DMMA anticipates finalizing the provider dispute process by March 31, 2016.**

### **Heightened Scrutiny**

DMMA will submit to CMS for heightened scrutiny review all settings presumed to be non-HCB (i.e. settings that are institutional or isolating in nature), but that DMMA believes are appropriate settings for HCBS and that have the qualities of HCB settings.

DMMA's process for heightened scrutiny, reviewing settings presumed to be non-HCB and determining if they warrant CMS' heightened scrutiny review, will be part of the onsite review process. Settings and issues will be initially identified through the desk review of member and provider survey responses. Specifically, responses that note a setting is on the grounds of or adjacent to a public institution or appear to be isolating in nature (based upon responses to the community access and integration service category) will be targeted for heightened scrutiny review.

For settings targeted for heightened scrutiny review, DMMA will build an additional validation review into the onsite review checklist. This additional validation tool will be consistent with the CMS heightened scrutiny process:

<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>.

The tool will ask onsite reviewers to provide evidence of the HCB nature of the setting. Reviews may include:

- Assessment of physical location and practices.
- Licensure requirements or other state regulations for the setting clearly distinguishing it from institutional settings.
- Residential housing/zoning requirements showing that the location is integrated in and supports full access to the greater community.
- Description of proximity to available public transportation or explanation of other transportation options where public transportation is limited.
- Procedures enacted by the setting indicating support for activities in the greater community according to the individual's preferences and interests.
- Interviews with direct support staff.

If the results of the onsite review are sufficient for DMMA to determine that a setting is HCB in nature, DMMA will submit a request, with sufficient evidence, to CMS for review. DMMA will include this information in the anticipated September 2016 submission of the Transition Plan to CMS.

### **Beneficiary Relocation**

In the event a member needs to transition to a new provider, MCO case managers will work with the member to ensure continuity of care including educating the member about the process, timeframes and due process rights. Through the person-centered planning process, case managers will ensure that members make an informed choice from alternative settings that comply with the HCB settings requirements and will

provide the necessary supports. The person-centered service plan will be updated as appropriate.

The MCO will send a formal notification letter no less than 30 days prior to relocation that outlines the specific reason for the relocation and the due process procedure and timeline available to the member and if applicable his/her caregiver. The MCO will also send the provider a notification letter no less than 45 days prior to relocation indicating the intent to relocate the member. The letter will direct the provider to participate with DMMA, the MCO, and other entities, as appropriate, in activities related to relocating the member. The member and provider notifications should be sent simultaneously to ensure both parties are made aware at the same time of the need to relocate the member.

The member's case manager will ensure that all services are in place in advance of the member's relocation and then monitor the transition to ensure successful placement and continuity of services. This will include increased monitoring before and after transition, updating the participant's service plan, as needed, and tracking the success of the transition. Specifically, case managers will conduct an onsite review of the member's new setting prior to the member's relocation. Case managers will touch base with members within the first month following transition, three months after transition and ongoing as part of regularly scheduled visits to monitor the success of the transition. While case managers will provide information on options and encourage members to transition to a setting that complies with the HCB settings requirements, it is important to note that some members may choose to remain in their current setting. Case managers will work with these members regarding finding alternative placements.

As we noted in response to public comments in the September 17, 2015 update to the Plan, DHSS has no plans to remove any of the current services from the system. We are committed to supporting the needs and preferences of individuals within the requirements of the HCBS final regulations.

### Ongoing Monitoring

Monitoring of compliance with the HCBS Final Rule will occur long after the March 17, 2019, federal implementation date. On an ongoing basis, DMMA will ensure effective monitoring of provider settings to support continued compliance with all applicable HCB settings requirements. The DSHP MCOs will have primary operational responsibility for monitoring functions, with oversight from DMMA.

Case managers will monitor member experience and compliance with HCB settings requirements during quarterly face-to-face touch point meetings with members. DMMA will develop a questionnaire for case managers to use during their quarterly meetings. The questionnaire will align with the CMS exploratory questions and will help the case manager assess the member's experience on an ongoing basis. The questionnaire will touch on several areas that were covered in onsite reviews, including but not limited to: community access, services, living space, and staff interactions.

The member's person-centered service plan will be updated as needed to note any identified issues and follow-up activities required with providers. As appropriate, case managers will assist members in finding other, appropriate, HCBS providers.

MCOs will verify continued compliance of current providers with the HCB settings requirements as part of the MCO credentialing/recredentialing process. A checklist will be developed for this purpose that addresses the key compliance areas described in the HCBS Final Rule. If a compliance issue is identified during the review, the provider will be notified of the issue and remediation measures will be taken, including but not limited to the development of a CAP, in order to address the issue. The provider will submit periodic updates to the MCO on the status of implementation.

For other HCBS programs including DDDS programs (as addressed previously in the Plan), Pathways and PROMISE, the operating agency will monitor provider compliance as part of ongoing provider qualification verification processes using a variation of the checklist noted above.

Providers new to the system must meet all HCB settings requirements prior to providing services to HCBS members. Verification that the provider is an appropriate setting and is not institutional in nature prior to service delivery will occur through a variety of processes, including but not limited to onsite reviews and surveys.

DMMA will be responsible for overseeing the MCOs' and operating agencies' provider monitoring functions to ensure they are appropriate, timely, and align with any and all applicable CMS guidance.

DMMA is targeting no later than September 2016 to finalize its monitoring process, including development of draft tools.

## **Public Comments**

### ***Comments from DDDS Focus Group Meetings on the DDDS Waiver Portion of the Statewide Transition Plan***

DDDS invited key stakeholders to provide input and comment on the DDDS activities outlined in the Plan at two focus group meetings held on January 21, 2015 and January 28, 2015. The meetings were held as part of the required process of public notice in order to allow Delaware to develop a comprehensive Plan. The organizations invited to participate in the meetings include:

- Developmental Disabilities (DD) Council.
- Delaware State Council for Persons with Disabilities (SCPD).
- State Ombudsman.
- Governor's Advisory Council for Exceptional Citizens (GACEC).
- Advisory Council to DDDS.
- Arc of DE.
- The Delaware Association of Rehabilitation Facilities (DELARF).
- People First (self-advocates).
- Disabilities Law Program.
- Delaware Family Voices.
- Waiver Providers.
- Families of individuals receiving DDDS waiver services & other DDDS services.

Those organizations and the public at large will also have the opportunity to provide comments in writing on the DDDS activities and the broader Plan as part of the public comment period.

The following input was received at the focus group meeting convened by DDDS on January 21, 2015.

<b>Public Comments</b>	<b>DDDS Response</b>
A commenter indicated that DDDS should ensure that the Downs Syndrome Assn and Autism Speaks were included in the public input process.	DDDS indicated that it would ensure that these organizations were included on the DDDS listserv that would be used to notify stakeholders when and where the draft Plan would be published for public comment.
A commenter recommended including families of individuals with an intellectual disability who were not enrolled in the DDDS waiver in the public comment process.	Advisory Council to DDDS is made up of family members of both waiver and non-waiver participants, so they represent both groups. The Plan will be posted to the DMMA and DDDS websites and in the Delaware Register of Regulations. The public will be able to comment via multiple avenues.

## Delaware Statewide Transition Plan

---

Public Comments	DDDS Response
A commenter recommended that the public comments received once the draft Plan is posted be summarized to avoid repetition but that the number of comments expressing the same notion be noted.	This suggestion was passed on to DMMA since they will be receiving the written public feedback.
A commenter recommended that the public forums be transcribed as a record of the meeting.	DDDS arranged for the recordings of the two focus group meetings to be transcribed.
A commenter recommended that the state use social media and other commonly used communication venues such as Facebook, Twitter, WDEL and the Delaware Register of Regulations to inform the public where the draft Plan can be found and how to comment.	This recommendation was passed on to DMMA.
A commenter recommended that the Plan be translated into Spanish.	This recommendation was passed on to DMMA.
Several commenters recommended the creation of a Steering Committee to assist with public input, review Plan work products and generally oversee the development and implementation of the assessment phase of the Plan. The chairperson of the Advisory Council to DDDS volunteered for the Advisory Council to DDDS to take on this role. This was unanimously supported by the stakeholders present.	DDDS agreed that the Advisory Council to DDDS would be a logical group to function as a Steering Committee for the DDDS portion of the Plan.
Several providers recommended that the providers be allowed to perform a self-assessment of their policies and procedures and also their settings under the Rule.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the Advisory Council to DDDS create one or more sub-work groups to develop the provider self-assessment instruments and that the working group include representatives from provider agencies as well as families.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the sub-work group leverage survey instruments that may have already been developed by other states.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the provider self-assessment instrument for policies and procedures include a citation and excerpt from a publication that demonstrates compliance with each requirement.	DDDS has incorporated this recommendation into its portion of the Plan.

## Delaware Statewide Transition Plan

---

Public Comments	DDDS Response
A commenter suggested that a look-behind review be conducted by the state of a sample of providers who complete the self-assessment instruments for their policies and settings.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the sample of settings to be reviewed as part of the look-behind process be a combination of targeted as well as random reviews.	DDDS has indicated in the Plan that it will use a 20% sample.
A commenter suggested that Debbie Gottschalk from the Secretary's Office be asked to review Delaware's Landlord/Tenant Code vis-à-vis the Community Rule since she is a lawyer and has extensive experience in this area.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested including the Arc of Delaware's property management staff in a review of HUD home rules vis-à-vis the Community Rule.	DDDS has incorporated this recommendation into its portion of the Plan.
Several commenters indicated that they believed that a likely outcome of the assessment of the settings might be that additional resources will be required in order to come into compliance with the Community Rule.	DDDS has added an action item to its portion of the Plan indicating that resource needs, including a review of staffing ratios necessary to maximize opportunities for community inclusion, will be explored as part of the process of remediation for settings that do not comply with the Rule.

## Delaware Statewide Transition Plan

---

The following input was received at the focus group meeting convened by DDDS on January 28, 2015.

Public Comments	DDDS Response
A commenter suggested that the list of state publications to be reviewed as part of the review of policies, procedures, etc. be qualified with a statement like “including but not limited to” in the event that there are other documents that need to be reviewed in addition to the list presented.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter recommended that the Division create a “parking lot” for issues that might come up in the development and implementation of the Plan that are outside the scope of the Plan.	DDDS agreed to do this.
A commenter recommended that the Division look for inconsistencies between responses to the NCI survey and the provider self-assessments of settings.	DDDS is exploring whether we can get NCI data at the provider and setting level.
A provider recommended that providers should be represented on the sub-work group of the Advisory Council to DDDS that is going to develop the provider self-assessment instruments.	The Plan does not specify the membership of the sub-work groups other than to say that they will be made up of “stakeholders”, but DDDS did not have any objection to including a provider representative.
Several commenters recommended that DDDS give the providers a list of the policies and procedures that they would be required to submit to document compliance with the Rule.	DDDS did not agree with that approach and indicated that neither it nor the sub-work group of the Advisory Council to DDDS would dictate to providers a set of policies and procedures that would be provided to demonstrate compliance with the Rule. It is incumbent upon each provider, as it completes the self-assessment instrument, to indicate what documentation enabled it to make a finding of compliance or non-compliance with each individual requirement under the Rule.

### ***Comments on Statewide Transition Plan***

The Plan was made available for review during **three** public comment periods – the first, from February 6, 2015 through March 9, 2015, the second, from July 27, 2015 through August 29, 2015, **and the third, from February 1, 2016 to March 22, 2016**. The purpose of the second public comment period was to receive feedback on updates to the Plan since the initial March 2015 publication. **The purpose of the third public comment period was to receive feedback on updates to the Plan since the September 2015 publication.**

## **Delaware Statewide Transition Plan**

---

During the first public comment period, comments were received from organizations and individual stakeholders including providers, parents, family members and friends of HCBS participants in Delaware. Nearly one hundred and thirty (130) comments were received from individuals. The following organizations submitted comments on the Plan:

- Disability Law Program at the Delaware Community Legal Aid Society, Inc. (DECLASI)
- Delaware Association of Rehabilitation Facilities (DeARF)
- Governor's Advisory Council for Exceptional Citizens (GACEC)
- Chimes Delaware
- State Council for Persons with Disabilities (SCPD)
- Delaware Developmental Disabilities Council
- National Association of Councils on Developmental Disabilities (NACDD)
- Easter Seals
- University of Delaware

In addition, DHSS would like to thank the Centers for Disabilities Studies at the University of Delaware and Autism Delaware for assisting the State in collecting public comment by organizing a public survey. Survey responses were received and are reflected in the summary below.

During the August, 2015 public comment period, DHSS again received comments from organizations and individuals. We received nineteen (19) individual comments. The following organizations submitted comments on the Plan:

- Delaware Association of Rehabilitation Facilities (DeARF)
- Chimes Delaware
- State Council for Persons with Disabilities (SCPD)
- Delaware Developmental Disabilities Council
- Families Speaking Up
- CERTS, Inc.
- Centers for Disabilities Studies

The charts in Attachments 1 and 2 provide a summary of the comments received and State responses, where applicable, to issues identified in both public comment periods. The charts also note the changes that were made to the Plan in response to feedback.

**During the February, 2016 public comment period, DHSS again received comments from organizations and individuals. We received 34 individual comments. The following organizations submitted comments on the Plan:**

- **Chimes Delaware**
- **State Council for Persons with Disabilities (SCPD)**
- **Delaware Developmental Disabilities Council**
- **Families Speaking Up**
- **CERTS, Inc.**
- **Centers for Disabilities Studies**

## **Delaware Statewide Transition Plan**

---

- **Community Legal Aid Society, Inc. Disabilities Law Program**
- **Elwyn Delaware**
- **Kent-Sussex Industries (KSI)**
- **Easter Seals Delaware & Maryland's Eastern Shore**
- **Endless Possibilities in the Community (EPIC)**
- **Arc of Delaware**
- **Governor's Advisory Council for Exceptional Citizens (GACEC)**
- **National Health Law Program**
- **Autism Delaware**

The chart in Attachment 9 provides a summary of the comments received and DHSS responses, where applicable, to issues identified in the February 2016 public comment period. The chart also notes the changes that were made to the Plan in response to feedback.