



*DELAWARE HEALTH AND SOCIAL SERVICES*

Division of Medicaid & Medical Assistance

# Delaware Statewide Transition Plan for Compliance with Home and Community-Based (HCB) Settings Rule

## Amendment 1 - Updated

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## Introduction

The *Delaware Statewide Transition Plan for Compliance with Home and Community-Based Setting Rule* (the Plan) was last updated and submitted to the Centers for Medicare & Medicaid (CMS) March 30, 2016. The Plan received initial CMS approval July 14, 2016. A copy of the Plan can be viewed at:

[http://dhss.delaware.gov/dhss/dmma/hcbs\\_trans\\_plan.html](http://dhss.delaware.gov/dhss/dmma/hcbs_trans_plan.html). Please refer to the Plan for details regarding background, covered home and community-based services (HCBS), and provider settings assessed by the Department of Health and Social Services (DHSS).

From this point forward, the Plan will be amended to provide updates and the current status of DHSS transition plan activities. This is the first amendment, which also addresses CMS comments received July 14, 2016, via email April 6, 2017, and October 4, 2017. Updated information is noted in this document in red font. In addition, the following attachments have been added to the STP amendment: 1) Attachment 2 which notes the April 6, 2017 CMS comments and DHSS responses; and 2) Attachment 3 which is a crosswalk between the HCBS final rule settings requirements and the DDDS participant survey questions.

Amendment 1 is a supplement to and builds on the Plan and demonstrates the evolution of DHSS activities to demonstrate compliance with all applicable federal requirements. As a result, the amendment and the STP should be viewed together in order to provide the complete picture of DHSS' comprehensive implementation activities. The Plan is a living document that will continue to be updated as activities are completed and issues are identified. It is important to note that the

It is important to note that the Plan provides a framework for the review of all HCBS programs offered to Delaware Medicaid recipients to ensure that each program meets all applicable home and community-based (HCB) settings requirements as prescribed in the HCBS final rule. Pathways to Employment (Pathways) (<http://dhss.delaware.gov/dsaapd/pathways.html>) and Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE) (<http://www.dhss.delaware.gov/dhss/dsamh/promise.html>) were initially approved in December 2014 as meeting all HCBS final rule requirements and therefore are not subject to transition plan activities. However, both programs are included in DHSS' comprehensive oversight and monitoring of all HCBS programs to ensure ongoing compliance with all applicable federal requirements.

The activities noted below are organized according to topic areas requested by CMS. Within each area, activities are presented for the Diamond State Health Plan (DSHP), administered by the Division of Medicaid & Medical Assistance (DMMA), and the Division of Developmental Disabilities Services (DDDS) waiver, administered by DDDS, consistent with organization of activities in the Plan. To the extent possible, processes are consistent across DSHP and DDDS. Where there are differences, they are also noted below.

## Site-Specific Assessment Activities and Results

The description below provides updates and results of the DSHP and DDDS site-specific assessment activities outlined in the Plan. The HCB settings assessment process is not yet completed. However, at this time no HCB settings were identified as utilizing reverse integration practices. Likewise, assessment activities did not identify any individually owned private homes that are institutional in nature. Please refer to *Ongoing Monitoring* for information regarding assessment activities moving forward.

## **DSHP**

### **Provider Self-Assessments, Member Survey and Desk Review**

As noted in the Plan, DMMA completed comprehensive site-specific assessment of all DSHP HCB settings, consisting of provider self-assessments, member surveys and onsite reviews. All provider settings (27 in total) were required to complete the provider self-assessment for each HCBS provided and for each setting where members receive services. Group settings were included in the assessment process. The provider self-assessment was launched September 2, 2015 and closed November 30, 2015 and yielded a 100% response rate. Details on the design, methodology and results of the provider self-assessment are found in the Plan (pages 66-70).

DMMA also used a member survey to capture information for the site-specific assessments from the member perspective and to provide the first level of validation of provider responses. The member survey was launched on September 2, 2015 and closed on December 30, 2015. Additional details on the member survey can also be found in the Plan (pages 66-70).

DMMA conducted a desk review of each provider's self-assessment results and corresponding member survey feedback. Across all provider settings, DMMA collected an average of 12 member surveys for each setting. Each member survey was evaluated and cross referenced with each provider self-assessment. Key discrepancies were noted and incorporated into the onsite review tool as discussed below.

DMMA had initially planned to use the desk review process to prioritize providers for onsite look-behind reviews (see the Plan for additional detail) (pages 70-71). However, DMMA's intent to be as comprehensive as possible with each site-specific assessment lead the agency to conduct onsite look-behind reviews for all 27 provider settings. The findings of the provider onsite look-behind reviews are detailed in the following section.

### **Validation Activities: Onsite Review of Every HCBS Provider Setting**

As described in the Plan (pages 71-72), DMMA conducted onsite reviews of provider settings between March 1, 2016 and March 17, 2016. These reviews were the second level of validation of the provider-self assessment results. An experienced team of DMMA nurses were responsible for completing the onsite reviews. The onsite review team has extensive experience conducting provider onsite reviews, which DMMA leveraged in designing the approach to the reviews.

DMMA developed a standardized onsite review tool to ensure a consistent approach to conducting the reviews. The tool included specific evaluation questions related to member choice of a non-disability setting and location of the setting relative to institutional facilities. The standardized tool included review areas that were exclusively focused on evaluating the isolation of individuals from the broader community. DMMA also included provider-specific questions for those areas where the desk review revealed discrepancies between the provider's self-assessment and the corresponding member surveys.

Details regarding the review tool and the review team's additional preparations for the onsite visits, including training, can be found in the Plan (page71).

Approximately three weeks prior to the onsite reviews, DMMA notified provider settings of the upcoming onsite review, the general timeframe of the review, and provided guidance on the process and expectations.

DMMA onsite reviewers met with a variety of staff at each HCB provider setting, including, but not limited to program and executive directors, administrators, program support staff, program medical staff and social workers. Also, as an additional validation measure, members were selected at random and were interviewed during onsite reviews.

### **Onsite Review Findings and Remedial Actions**

At the conclusion of the site-specific assessment process, DMMA incorporated the results of the onsite reviews with the results of the desk reviews to “bucket” provider settings into four categories:

- Category 1: Setting is compliant with federal HCB settings requirements.
- Category 2: Setting will be compliant with modifications.
- Category 3: Setting cannot meet federal HCB setting requirements and will be removed from the program.
- Category 4: Delaware will submit the setting for CMS heightened scrutiny review.

DMMA found that 14 (52%) provider settings are compliant with federal HCB settings requirements (Category 1). Twelve (44%) provider settings will require modification to achieve compliance (Category 2). No provider settings will be removed from the program and/or require relocation of members (Category 3). Delaware will submit one provider setting for CMS heightened scrutiny review (Category 4, described in *Heightened Scrutiny* below).

On June 2, 2016, DMMA issued a “report card” to each provider setting detailing the areas in which the provider demonstrated both compliance and non-compliance with federal HCB settings requirements. DMMA gave provider settings the opportunity to dispute the non-compliance findings and submit a request for reconsideration within 10 days from the date of the notice (details of the provider dispute process are outlined in the Plan on page 72). No provider settings disputed the results of the onsite review.

The 14 provider settings that were deemed “compliant” following the site-specific assessment process required no remedial action. These providers will be subject to ongoing monitoring activities (detailed in *Ongoing Monitoring* below).

The 12 providers that were deemed “compliant with modification” were required to submit a corrective action plan (CAP) to DMMA within 30 days of receipt of the notice. DMMA required providers to describe in their CAP the remediation activities and associated timeframes that the provider will implement to ensure compliance with each non-compliant finding. Due to the nature of certain remediation activities, timeframes for CAP compliance varied with each setting. Provider CAPs will be closely monitored by DMMA to ensure that all elements are met as required by the CAP. To sufficiently address the CAP, providers are required to submit evidence to DMMA for each non-compliant finding noted in the report card. The evidence required by the provider varies based on the type of non-compliant finding. For example, a provider that did not demonstrate compliance with requirements protecting an individual’s right to privacy was required to submit revised policies and procedures and/or evidence of the installation of additional privacy measures to demonstrate compliance. A provider noted for inadequate community integration was required to submit revised policies and procedures and describe activities the provider is implementing to improve community integration. DMMA will validate all evidence submitted for each non-compliant finding through future onsite reviews and, as appropriate, will

provide technical assistance. DMMA requires that all provider settings are compliant with federal HCB settings requirements by March 17, 2019.

The following table shows the complete results of the site-specific assessment for all DSHP HCBS provider settings.

<b>Setting Type</b>	<b>Compliant</b>	<b>Compliant w/ Modification</b>	<b>Removed from Program</b>	<b>Heightened Scrutiny</b>
Adult Day Services	4	7	0	1
Assisted Living	9	4	0	0
Day Habilitation	1	1	0	0
<b>Total Settings (27)</b>	<b>14</b>	<b>12</b>	<b>0</b>	<b>1</b>

### **Key Themes**

Overall the site-specific assessments demonstrated strong compliance with the HCBS federal requirements. Most settings were: compliant with integrating access and supports to the greater community, not on the grounds of a nursing facility/institution (with the exception of the one provider noted below under *Heightened Scrutiny*), promoted engagement in community life, and provided autonomy with personal resources and member choice of setting(s) including non-disability settings. Settings also have policies in place to protect the privacy of individuals, ensure person-centered service plans are comprehensive and based on member’s needs, and that services and supports are inclusive of the greater community and not restrictive to just HCBS recipients.

The site-specific assessments did reveal three common themes of non-compliance across provider settings that are being addressed by DMMA through the CAP process. The first theme noted for several Adult Day Services and Day Habilitation provider settings was a lack of appropriate places for members to secure belongings. A second theme noted primarily for several Adult Day Services providers, was inadequate community engagement for members, where some settings are very self-contained and did not afford members much community integration while receiving services at the setting. It should be noted, however, that for many members receiving Adult Day Services, the day program itself provides more community integration to members who otherwise may just stay at home. DMMA is working with these providers to further enhance community engagement and integration for their members. A third theme noted for several Assisted Living provider settings was certain restrictive characteristics regarding privacy in member units. DMMA is currently working with these providers through the CAP process described above to remedy these issues.

## **DDDS**

### **Provider Self-Assessments, Participant Survey and Desk Review**

As described in the Plan (pages 33-37), DDDS mandated the completion of comprehensive site-specific provider self-assessments of all HCB settings where participants receive HCBS under the DDDS HCBS waiver. The initial phase of this process consisted of the provider-self assessments and desk reviews conducted by DDDS staff of various documents providing a status report and onsite reviews. The provider self-assessment tool was mandatory for all providers of HCBS under the DDDS waiver and all settings. In addition to addressing all federal

HCB setting requirements, the provider self-assessment required providers to indicate if the setting was on or immediately adjacent to an institution. Additional details regarding the provider self-assessment can be found in the Plan (pages 33-35).

A total of 136 providers (including two out of state entities) completed the assessment for 480 total settings, including 94 shared living settings. The first two provider self-assessments for Day Services and Residential agency providers were launched September 4, 2015 and closed November 13, 2015. This resulted in a total of 386 provider site self-assessments. The third provider self-assessment for Shared Living Providers was launched November 11, 2015 and closed December 7, 2015. This resulted in a total of 94 self-assessments. In total, DDDS received 480 unique submissions across all services and settings, yielding an overall provider self-assessment response rate of 100%.

DDDS also implemented a participant survey for each individual receiving HCBS. DDDS indicated in the February 2016 update to the Plan (page 32) that it was not able to use NCI data, as initially planned, as an additional data input to validate the provider self-assessments because the NCI data could not be tied to specific providers or settings. As a result, DDDS decided to develop its own participant survey, but it was not able to be launched in time to use the survey results to help target the settings selected for the onsite look-behind reviews. Instead, the surveys were used as an additional source of information to validate the provider self-assessment and onsite reviews. This altered use of the participant survey was also described in the February 2016 update to the Plan (pages 32-33).

The participant survey was launched on February 20, 2016 and was distributed to DDDS case managers and participant guardians to help encourage participant engagement with the survey. A separate survey instrument was created for recipients of residential and day services, so some members received both surveys. To protect the confidentiality of participants, DDDS collects minimal identifying information in order to connect a member to a specific setting; participants are not publicly identified or shared with providers. DDDS conducted three regional trainings for case managers between February 2, 2016 and February 4, 2016 on how to assist the member to complete the survey, how to avoid influencing participant responses and submission procedures for completed surveys.

Case managers and guardians have begun supporting participants in completing the survey on paper, and then mailing the survey to DDDS. Because the waiver members and their families had recently completed the NCI survey and to avoid “over surveying” the waiver population, DDDS decided that for members who did not have a guardian, the survey would be completed during their next annual person-centered plan review date. This means that the surveys will not be conducted for all waiver members until February 2017.

To the extent that it was available during the time the desk audits and onsite reviews were being completed, the participant survey data was used as an additional input in the validation process. At the time of this Amendment, DDDS has distributed 2,074 participant surveys and received 813 completed submissions, yielding a current response rate of 39% for the participant survey. Recognizing the important need for continuing consumer feedback in implementation of the Rule, DDDS will be adding survey questions (specific to HCB Settings requirements) to its routine Quality Service Review (QSR) process conducted by the DDDS Office of Quality Improvement. This process surveys a random sample of DDDS waiver members each year across all provider types. The survey process is described in the approved DDDS waiver application (Appendix G). The

results of the survey are shared with providers and case managers in the aggregate. This process will continue on an on-going basis and will provide DDDS with trend data over time.

DDDS conducted desk reviews of all provider settings between November 2015 and January 2016 as an additional validation measure. The purpose of the desk review was threefold: (1) to ensure that each survey question was answered, (2) to ensure that additional comments were provided where required and (3) to validate the responses, to the extent possible, with information DDDS already had on hand. DDDS used other available data sources such as: past provider evaluations, annual Quality Service Reviews (QSR), current/past incident reports and case manager notes to validate the results of all provider self-assessments.

Following submission of the March 30, 2016 iteration of the Plan, CMS requested clarification on the difference between “setting presumed not to be compliant” and “settings likely to be compliant”. The language CMS questioned appeared in the original March 2015 Delaware submission of the Plan. In subsequent revisions, new “update” sections were added to the Plan to indicate both changes to the original submission and to update progress toward meeting plan milestones, but the original language was largely unchanged. In the interim, when the data became available from the provider self-assessments, it was organized into the categories enumerated on page 4 of CMS’ June 2016 feedback to Delaware instead of the categories listed in the original submission of the Plan (page 16).

The desk review indicated that 17 settings were likely compliant with federal HCB settings requirements, while 462 provider settings were determined to be non-compliant as they had at least one non-compliant finding within the setting. Of the non-compliant settings in which residential habilitation is delivered, 293 of them, including Shared Living, need only a residency agreement in place to be in compliance. One provider setting is located on the grounds of a public institution. DDDS expects to complete the beneficiary relocation process for the setting on the grounds of a public institution by spring 2017.

As noted in the systemic assessment (Attachment 6 of the Plan), DDDS created a work group that will design a model residency agreement template that can be used for each of the residential setting types under the approved waiver. New model agreements will be in place for all impacted HCBS provider settings no later than December 2017.

Following completion of the desk reviews, DDDS issued a “Notice of Findings” to each provider setting noting any areas of non-compliance with federal HCB settings requirements. For any findings of non-compliance, provider settings were required to submit a CAP by no later than April 1, 2016. Provider settings were also given the opportunity to dispute any of the non-compliance findings and submit a request for reconsideration within 10 days from the date of the notice. No provider settings appealed the results of the desk review and all agencies submitted CAPs within the required timeframe.

#### **Validation Activities: Onsite Review of Minimum 20% Sample of HCBS Provider Settings**

The DDDS Office of Quality Improvement (OQI) was responsible for performing validation activities under the oversight of the DDDS Advisory Council which approved the methodology for selecting the sample and the procedures for conducting the reviews at its monthly meeting on February 18, 2016. As noted in the Plan (pages 36-37), DDDS selected a 20% sample of HCB settings to receive an onsite review. By design, the 20% sample included at least one service and setting per provider agency. Shared Living settings were not included in the onsite review. The pool for the 20% sample included all settings that were issued a CAP during the desk

review process. Within the construct indicated above, specific setting locations were selected for review if they were already scheduled for a QSR during the onsite review period. Lastly, specific providers and settings were selected for the review if the provider self-assessment responses indicated non-compliance in three or more responses across the four domains of the survey or if the participant survey indicated differences from the provider responses in multiple areas.

In total, 77 settings were selected for an onsite review, which represented all 40 in-state provider agencies. No out of state provider agencies were selected for the onsite review. As indicated in the Plan (page 40), DDDS will accept the survey results for compliance with the HCBS final rule of the state in which these agencies are physically located.

The onsite review team used a standardized tool developed for the onsite reviews primarily based on the Council on Quality and Leadership (CQL) toolkit and customized for each type of waiver service. The tool included specific evaluation questions related to participant choice of a non-disability setting, setting location relevant to other institutional settings, findings from previous QSRs, the provider self-assessment, participant surveys, incident reports and interviews with staff/participants at the setting. The standardized tool included review areas that were exclusively focused on evaluating the isolation of individuals from the broader community. DDDS also required provider settings to submit policies, procedures and staff orientation materials in advance of the review and were included as part of the onsite review process.

DDDS completed the onsite reviews between February 2016 and May 2016. Provider agency staff that participated in the onsite review included executive directors, program coordinators, and house managers. DDDS also interviewed participants at the setting during the onsite review process when participants were available.

### **Onsite Review Findings and Remedial Actions**

At the conclusion of the site-specific assessment process, DDDS was able to display the results for the provider settings in four categories:

- Category 1: Setting is compliant with federal HCB settings requirements.
- Category 2: Setting will be compliant with modifications.
- Category 3: Setting cannot meet federal HCB setting requirements and will be removed from the program.
- Category 4: Delaware will submit the setting for CMS heightened scrutiny review.

Based solely on the onsite review and not having a residency agreement in place, DDDS found that 6 provider settings selected for review were fully compliant with federal HCB settings requirements. Seventy-one provider settings were found to be compliant with modification and were required to submit a CAP. No provider settings surveyed as part of the onsite review will require removal from the program and/or the relocation of individuals (Category 3 – Delaware does not plan to submit any DDDS settings for heightened scrutiny review or Category 4 – described below in *Heightened Scrutiny*).

Following the completion of the onsite reviews, DDDS issued a “Notice of Findings” to each provider setting noting areas of non-compliance with federal HCB settings requirements. Provider settings were also given the opportunity to dispute any of the non-compliance findings and submit a request for reconsideration within 10

days from the date of the notice (see the Plan for details regarding the provider dispute resolution process page 39). No provider settings appealed the results of the onsite review.

Provider settings that were deemed “compliant” following the site-specific assessment process were notified by the DDDS of their compliance and required no remedial action. These provider settings will be subject to ongoing monitoring activities moving forward by DDDS, including annual QSRs.

Provider settings that were deemed “non-compliant with modification” were issued a “Notice of Findings” and were required to submit a CAP describing in detail the remediation activities (for each non-compliant finding) that will be implemented to ensure compliance and the associated timeframe to complete the activities. Provider settings were required to submit their CAP to DDDS within 60 days of receipt of the notice for each non-compliant finding. CAPs for all settings were submitted within the required timeframe and will be closely monitored by DDDS.

To sufficiently address the CAP, providers are required to submit evidence to DDDS for each non-compliant finding noted in the “Report of Findings”. The evidence required by the provider varies based on the type of non-compliant finding. For example, a provider noted for not having locks on bedroom doors is required to submit a work order and other evidence to demonstrate compliance. Providers noted for not offering participant choice pertaining to their daily schedule are required to submit revised policies and procedures and describe steps the provider will take to enable participants more autonomy with their daily schedules. DDDS will validate all evidence submitted for each non-compliant finding through future QSR reviews and annual site evaluations and will provide technical assistance to providers as appropriate. DDDS has also developed a quality manual that details standards by service type to assist providers with implementing the federal HCB setting requirements in their CAP.

In summary, 480 settings were evaluated through the site-specific assessment process. Seventy-seven settings were selected to have a look behind completed by the OQI. There are 460 provider settings, including Shared Living that were identified as “compliant with modification” with the most commonly required modification being a residency agreement. During the onsite review, one group supported employment setting that had originally been reported as non-compliant was changed to compliant due to provider misinterpretation of the survey questions. The remaining 74 sites remained the same. One provider setting will be removed from the program. No provider setting will be subject to heightened scrutiny.

The follow tables demonstrate the complete results of the site-specific assessment for all DDDS HCBS provider settings.

### Provider Self-Assessment Results

Setting Type	Compliant	Compliant w/ Modification	Removed from Program**	Heightened Scrutiny
Day Habilitation	7	25	0	0
Prevocational Service	4	3	0	0
Residential Habilitation*	310	119	1	0
Supported Employment	10	1	0	0
<b>Total Settings (480)</b>	<b>331</b>	<b>148</b>	<b>1</b>	<b>0</b>

\*Neighborhood Group Home, Community Living Arrangement, Shared Living

\*\* One out of state provider was not included in the assessments due to the early recognition and action steps related to the interventions used in the setting.

### Desk Review Results

Setting Type	Compliant	Compliant w/ Modification	Removed from Program**	Heightened Scrutiny
Day Habilitation	5	27	0	0
Prevocational Service	2	5	0	0
Residential Habilitation*	0	429	1	0
Supported Employment	10	1	0	0
<b>Total Settings (480)</b>	<b>17</b>	<b>462</b>	<b>1</b>	<b>0</b>

\*Neighborhood Group Home, Community Living Arrangement, Shared Living

\*\* One out of state provider was not included in the assessments due to the early recognition and action steps related to the interventions used in the setting.

### Onsite Results

Setting Type	Compliant	Compliant w/ Modification	Removed from Program**	Heightened Scrutiny
Day Habilitation	3	6	0	0
Prevocational Service	2	2	0	0
Residential Habilitation*	0	63	0	0
Supported Employment	1	0	0	0
<b>Total Settings (77)</b>	<b>6</b>	<b>71</b>	<b>0</b>	<b>0</b>

\*Neighborhood Group Home, Community Living Arrangement, Shared Living

\*\* One out of state provider was not included in the assessments due to the early recognition and action steps related to the interventions used in the setting.

### Final Results

Setting Type	Compliant	Compliant w/ Modification	Removed from Program**	Heightened Scrutiny
Day Habilitation	5	27	0	0
Prevocational Service	3	4	0	0
Residential Habilitation*	0	429	1	0
Supported Employment	11	0	0	0
<b>Total Settings (480)</b>	<b>19</b>	<b>460</b>	<b>1</b>	<b>0</b>

\*Neighborhood Group Home, Community Living Arrangement, Shared Living

\*\* One out of state provider was not included in the assessments due to the early recognition and action steps related to the interventions used in the setting.

## **Key Themes**

The site-specific assessments revealed three common themes of non-compliance across provider settings. The first theme noted for residential and shared living settings related to the lack of participant protections under the Delaware landlord/tenant code, which have been addressed as part of the systemic assessment process detailed in Attachment 6 of the Plan. A second theme noted for residential settings was that participants were not offered the opportunity to have a key or access device to the home or to appropriately lock bedroom doors. A third theme noted primarily for day programs was that participants were unable to adequately choose their schedules to ensure choice of activities and integration with the community. In some cases, provider settings began to address non-compliant findings as a result of the desk review process prior to the onsite reviews and continue to address each finding through the CAP process. To remedy these issues, DDDS is in the process of issuing new service standards to help guide provider settings with compliance. DDDS has assigned OQI staff to support provider settings with developing continuous quality improvement plans in this area and to provide technical assistance as needed.

## **Heightened Scrutiny Process and Proceeding Steps in Process**

### **Background**

The following is an overview of the DSHP provider settings site-specific assessment process to determine compliance with the HCB settings requirements, including the State's heightened scrutiny review process and how provider settings were identified for heightened scrutiny submission to CMS. Additional details are found on pages 7-8 and 65-73 of the Transition Plan, Attachment 8 and pages 4-6 and 12-13 of Amendment 1.

The universe of settings assessed to determine compliance with the HCBS requirements consisted of Medicaid providers serving HCBS participants in residential and non-residential settings – all settings where individuals receive HCBS. Institutional settings and non-Medicaid certified providers were not included in the universe. The following services provided to DSHP participants were addressed in the assessment:

- **Personal Care in an Assisted Living Facility:** Includes personal care and supportive services (homemaker, chore, attendant services, and meal preparation) that are furnished to participants who reside in Assisted Living Facilities.
- **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 member. For the purpose of the assessment, a setting was considered to be the place where members receive adult day services.
- **Day Habilitation Services:** 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.

Provider settings were assessed using a three-part assessment process: provider self-assessment, member assessment and site specific assessments.

The CMS exploratory questions served as the foundation for the provider self-assessment; the Assisted Living questions were based on the residential exploratory questions and the Adult Day and Day Habilitation

questions were based on the non-residential exploratory questions. Each provider self-assessment included the following subject areas:

1. Choice of Setting or Choice of Residence – HCBS participants’ autonomy in selecting setting.
2. Community Access and Integration – HCBS participants’ access 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 participants’ experiences with staff participants of the residence/setting and privacy issues.
5. Services and Supports – HCBS participants’ experiences with services.

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

Providers were required to complete a self-assessment for each setting and for each HCBS provided in a given setting. However, a majority of providers only render one service. The self-assessments were administered online. A paper copy was available upon request for providers unable to complete the self-assessment online.

Each provider self-assessment was subjected to a two part analysis: 1) desk review where the provider results were reviewed and compared to multiple member assessments of the services provided by that provider and 2) a site-specific assessment. The desk review analysis initially categorized providers into one of the categories described below (which align with the ‘buckets’ identified in CMS guidance). The site-specific assessment determined the final bucketing for the provider setting and therefore the appropriate next steps. As mentioned previously, institutional settings were not included in the universe of assessed providers, so Delaware did not create a category that aligns with CMS bucket 5 (institutional settings).

- Category 1: Setting is likely compliant (CMS bucket 1).
  - Providers who achieved a compliance score of 90% or higher and had all required policies and procedures.
- Category 2: Setting is likely non-compliant (CMS buckets 2 and 3).
  - Providers who achieved a compliance score of 89.9% or below and an overall compliance score that is 25% lower than corresponding member assessments.
  - Providers who indicated that any of their policies and procedures were not consistent with the Final Rule.
- Category 3: Setting is presumed non-HCBS (CMS bucket 4).
  - Any setting noted, by either provider or responses, as meeting CMS’ three prongs for heightened scrutiny:
    - Setting in a publicly or privately operated facility that provides inpatient institutional treatment.
    - Setting on the grounds of or adjacent to a nursing facility or other institution.
    - Setting with the effect of isolating individuals receiving HCBS from the broader community of individuals not receiving Medicaid HCBS.
  - Providers who achieved a compliance score of 89.9% or below on the community access and integration service category.

An onsite review was conducted for each provider setting as an additional validation measure and to follow-up on any issues identified as a result of either the provider self-assessment or participant surveys.

### **Discrepancies Between Provider Self-Assessment and Participant Survey Responses**

Each non-compliant finding identified in the provider self-assessment and participant surveys was assessed during the site-specific assessment. In the event that a discrepancy existed between a participant survey and the provider self-assessment, the member identified issue was evaluated during the onsite review. Any issues that could not be adequately addressed during the onsite review were included in the provider CAP and monitored for full remediation. As noted in the ongoing monitoring section below, settings will continue to be evaluated following the CAP process; any noted discrepancies will be re-evaluated on an ongoing basis through case manager touch points with members and quality reviews.

### **State Heightened Scrutiny Process**

The onsite review included an additional State heightened scrutiny assessment for provider settings meeting one or more of the following criteria:

- Designated as a Category 3 setting as a result of the provider self-assessment and desk review.
- Based upon a visual inspection as part of the site-specific assessment, reviewers noted that the setting is on the grounds of, or next to, a nursing home or other institution.
- Based upon a visual inspection as part of the site-specific assessment, reviewers noted a negative response to the questions:
  - Is the setting near private residences?
  - Is the setting near retail businesses?

For each identified provider setting meeting one or more of these criteria, the State heightened scrutiny assessment consisted of reviewers' analysis of responses to the following questions:

- Are HCBS provided separately from the services provided to non-HCBS facility residents?
- Are HCBS provided by different staff?
- Are there policies dictating the types of HCBS activities offered through the setting and/or the locations where these activities can take place?
- Are services and activities designed to allow for engagement with the broader community?
- Are HCBS also provided offsite?
- Is participant's interaction with the broader community limited in any way?
- Do participants participate regularly in typical community life activities outside of the setting to the extent the member desires?
- Are there procedures in place that support a member participating in community activities that are consistent with the member's preferences and interests?
- Are there staff training materials that appear to support participants participating in activities in the greater community according to individuals' preferences and interests?
- Does the setting use or authorize interventions or restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g., seclusion)?

## **Internal DMMA Process**

On an as needed basis, DMMA's Senior Policy Administrator communicated with the onsite review team to discuss and review provider site specific assessment findings. The Senior Policy Administrator reviewed the notes and findings from the onsite review team in order to make a determination of compliance and the appropriate next steps for each provider setting, including the need for a CAP and the issues to be addressed in a CAP. Based on the analysis of findings, the Senior Policy Administrator categorized provider settings for compliance as follows:

- Category 1: Setting is compliant with federal HCB settings requirements.
- Category 2: Setting will be compliant with modifications.
- Category 3: Setting cannot meet federal HCB setting requirements and will be removed from the program.
- Category 4: Delaware will submit the setting for CMS heightened scrutiny review.

The recommendations (including results of the site-specific assessment, provider self-assessment and participant survey findings) were presented to the DMMA Medicaid Director for a final determination. As determined necessary, the Medicaid Director followed-up with the provider (including in-person as determined appropriate), to address any unresolved issues.

Gilpin Hall Adult Day Program (Gilpin Hall), an Adult Day Program located at 1101 Gilpin Avenue, Wilmington Delaware 19806, was the only provider setting that met one or more of the heightened scrutiny criteria noted above, thereby placing the setting in Category 4. All other providers with identified areas of non-compliance were assessed to be Category 2 settings that could be compliant with modifications and therefore were required to develop a CAP. It is important to note that no Category 2 settings: 1) were in a publicly or privately operated facility that provides inpatient institutional treatment, 2) were on the grounds of or adjacent to a nursing facility or other institution or 3) had the effect of isolating individuals receiving HCBS from the broader community of individuals not receiving Medicaid HCBS that could not be remediated through the CAP process. As a reminder, the universe of settings assessed is noted on page 12 of Amendment 1.

It is important to note that even though at this point Gilpin Hall is the only HCB setting submitted to CMS for heightened scrutiny review, it is conceivable that other settings could be submitted in the future. DHSS will remain vigilant in identifying settings that meet all three prongs for heightened scrutiny: 1) settings in a publicly or privately operated facility that provides inpatient institutional treatment; 2) settings in a building on the grounds of, or adjacent to, a public institution; and 3) settings with the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. If at any time, as part of DHSS' ongoing monitoring to ensure provider compliance with all applicable federal requirements a HCB setting is identified as meeting one or more of the three prongs for heightened scrutiny, an onsite assessment will be conducted. If the setting overcomes the State's heightened scrutiny review process (described above), it will be submitted for CMS heightened scrutiny review.

## **Gilpin Hall Onsite Assessment**

On March 1, 2016, DMMA staff conducted an onsite review of Gilpin Hall. The focus of the review was to validate the findings of Gilpin Hall's provider self-assessment and the participant surveys.

The assessment revealed that while the setting is located on the grounds of a nursing home, the setting is located in close proximity to private residences and is within one mile of numerous retail businesses and therefore is not physically isolated from the broader community. However, the assessment also revealed that, in general, participants did not appear to have the opportunity to engage in community activities outside of the facility. We refer you to information in the following section of this request and to Gilpin Hall's site-specific assessment report for the complete results of the assessment.

As a result of the findings from the site-specific assessment, DMMA determined that the setting does not pass the State's heightened scrutiny review. On September 24, 2016 DMMA's Director, Deputy Director and other staff met with CMS representatives to discuss the status of Gilpin Hall as an HCB setting. CMS asked DMMA to submit Gilpin Hall for CMS' heightened scrutiny review process.

### **Results of DMMA's Assessment of Gilpin Hall**

Gilpin Hall was established in 1824 and is focused on enhancing the quality of life for elderly people by providing a secure and caring environment in a family setting within the context of the larger community (Attachment 3). Gilpin Hall serves individual between the ages of 50-93; the average age is 74. More than one half of the participants have a primary diagnosis of dementia. Other diagnoses include Cerebral Palsy, Hemiplegia, Parkinson's Disease, Diabetes Mellitus, COPD, Epilepsy, and S/P CVA.

HCBS participants receiving services at Gilpin Hall completed a participant survey. The results of the survey indicated high participant scores (greater than 80%) in the areas of:

- Choice of setting
- Characteristics of the setting
- Staff interactions and policy
- Services and support

The lowest aggregate score, 79.5%, was in the area of community access and integration.

Additional information regarding Gilpin Hall's aggregate participant scores can be found in Attachment 2. Please refer to the March 30, 2016, update to the Plan for details regarding the participant survey instrument.

As mentioned above, DMMA's site-specific assessment of Gilpin Hall revealed that the setting where HCBS participants receive services is located in the building of the Gilpin Hall nursing home. However, the setting has a separate, independent license as an adult day care program. Additionally, staff at the setting (including registered nurses, licensed practical nurses, certified nurse assistants and the Activity Director) provides HCBS separately from the nursing home residents. Registered nurses, licensed practical nurses, certified nurse assistants and the Activity Director are employed exclusively for the adult day program.

The setting is located immediately across from a residential neighborhood and is less than one mile from several retail businesses. However, during the onsite review, the survey team noted that although community resources are available, participants had limited opportunities to participate in activities outside of the setting.

### **Moving Towards Compliance**

As noted above, DMMA's assessment process revealed gaps in Gilpin Hall's current compliance with federal requirements of HCB settings. Following the participant survey, provider self-assessment, and site-specific

assessment, DMMA's Director and Deputy Director personally visited Gilpin Hall on September 19, 2016. This follow-up visit was important to confirm that with modifications Gilpin Hall could be an appropriate HCB setting.

We recognize that the identified non-compliant issues will need to be addressed in order for Gilpin Hall to be a fully compliant HCB provider setting. Gilpin Hall is committed to putting the necessary measures in place to continue providing HCBS. Furthermore, DMMA is committed to working with the setting to establish the appropriate milestones and timeframes appropriate to demonstrate compliance by March 19, 2019.

DMMA will require Gilpin Hall to develop and submit for approval a corrective action plan (CAP). This approach is consistent with that used for all providers with identified non-compliant issues. The CAP will need to provide sufficient details regarding:

- 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(s) responsible for each action.
- The strategy that will be employed to monitor progress toward compliance.

As noted above, one issue that Gilpin Hall will need to address is increasing opportunities for participants to integrate into the community. For Gilpin Hall, this will likely require a "reset" regarding the operational model and approach to providing HCBS for their participants.

Consequently, the CAP will need to demonstrate the measures that Gilpin Hall will put in place to realize this transition. At a minimum, we would expect the following areas to be addressed in the CAP:

- Training and education for all existing staff on HCBS requirements and working with individuals with dementia;
- Development of a curriculum for initial training for new staff and ongoing refresher training;
- Development of appropriate policies and procedures, including but not limited to the following areas: person-centered planning process and the role of the participant, development of person-centered plans of care; and participant access to community activities and services; and
- Strategies to measure effectiveness of interventions.

DMMA welcomes CMS guidance regarding additional issues to address to ensure an appropriate CAP.

Once approved, DMMA will regularly monitor implementation of the CAP. Gilpin Hall will provide monthly updates regarding the status of implementation until the CAP is fully implemented and all issues are addressed. As needed, technical assistance and support will be provided to facilitate compliance. Once approved, like all HCB settings, Gilpin Hall will be subject to ongoing monitoring to ensure that the setting continues to meet all applicable requirements.

Please refer to the heightened scrutiny request for Gilpin Hall Adult Day Program for additional details.

## **Beneficiary Relocation**

The following is a description of the beneficiary relocation process that will be implemented as needed for all Delaware HCBS programs (i.e., DSHP, DDDS HCBS Waiver, PROMISE and Pathways).

Case managers will work with affected members to ensure continuity of care and transition to a new provider and to find alternative providers, taking into consideration the member's preferences, interests and needs. Case managers will educate members about the relocation process, timeframes and the member's rights. Case managers will support the member in making an informed choice of providers from alternative providers that comply with the federal HCB settings requirements and will provide the necessary assistance to ensure this occurs.

MCOs or the operating agencies will send to the member and/or the member's caregiver or member's representative a formal notification letter no less than 30 calendar days prior to relocation that outlines the specific reason for the relocation and the relocation process and timeline. MCOs or operating agencies will also send the member's current provider a notification letter no less than 45 calendar days prior to relocation indicating the intent to relocate the member. The letter will direct the provider to participate with, as appropriate, DMMA, MCOs, operating agencies and other entities, in activities related to relocating the member.

Case managers will ensure that all services are in place in advance of the member's relocation and will monitor the transition to ensure successful placement and continuity of services. Case managers will conduct an onsite review of the member's new setting prior to the member's relocation and will touch base with members within the first 30 calendar days following transition, 90 calendar days after transition and ongoing as part of regularly scheduled visits to monitor the success of the transition.

Case managers will update the person-centered service plan as appropriate at all stages of the relocation process to note any identified issues and follow-up activities required with the member or the member's providers.

## **Ongoing Monitoring**

Delaware will implement a comprehensive approach to ongoing monitoring of providers new to the system and existing providers in the system. The approach will consist of obtaining feedback from multiple levels of the system, including but not limited to: the person-centered planning process, case manager touch points with members, provider credentialing/re-credentialing, provider enrollment and verification processes, and quality reviews. When issues are identified, as appropriate, DMMA, MCOs, DDDS or other operating agencies will work with providers individually to address non-compliance in a timely fashion. In addition, data will be collected and analyzed (on a provider setting level) in order to track and identify trends and root causes, and to make necessary systems, policy and/or operational changes in order to prevent reoccurrence. Also, DHSS will ensure that follow-up occurs in all instances when there is a complaint regarding a non-compliant provider setting.

The monitoring process will include ongoing strategies to address two important issues identified by CMS in its questions to the State: 1) the availability of non-disability specific settings, 2) preventing reverse integration and 3) assessment of privately-owned settings.

Monitoring starts with the person-centered planning process, the foundation for assessing needs and developing a service plan that addresses identified needs. During this process, when members select their providers, they are given the names of both disability and non-disability specific providers to choose from. DHSS will regularly monitor its provider network to ensure that non-disability specific provider settings remain a viable option for members. This monitoring will occur through External Quality Review (EQR) as well as DMMA's Quality Review team.

Individuals have the choice of where they would like to receive services, and that choice includes private residences and non-disability specific settings. Delaware's entire service delivery system has evolved over many years to become one that optimizes the ability of individuals to receive HCBS and remain in the community to the fullest extent possible. The provision of services for all HCBS participants is based on the person-centered planning process, where individuals make informed choices about the type of care they receive, the providers from whom care is received and the settings in which care is provided.

Ongoing monitoring of the appropriateness of HCB settings will also include assessing to ensure that reverse integration does not occur. A provider setting periodically opening the doors to the broader community does not constitute community integration. If identified, measures will be put in place, such as CAPs, to remediate the practice.

As part of the ongoing monitoring process to measure and document that a provider setting is meeting the community integration requirements as outlined in the HCBS final rule, DHSS will look at: how settings establish opportunities for individuals to participate in services and/or activities in the community, outside the walls of the setting; how settings ensure that participants are made aware of these opportunities; how settings ensure that individuals can freely choose from these services and/or activities; and how these services and/or activities are consistent with individual needs, as noted in the person-centered service plan. Non-compliant providers will be expected to remediate identified issues in a timely manner and document that all issues are addressed in order to continue to provide HCBS.

Case manager onsite touch point meetings will be used as the primary source to determine directly from members if they are residing in privately owned settings that are institutional in nature. If identified, these providers will be held to the same processes noted below regarding identification and remediation of non-compliant issues.

The following sections present information on how ongoing monitoring processes, activities and timeframes will be implemented for DSHP, DDDS HCBS Waiver and the PROMISE and Pathways programs.

## **DSHP**

During quarterly onsite touch point meetings, MCO case managers will assess members' experience and provider compliance with federal HCB settings requirements. Case managers will use a tool developed by DMMA that will build on the CMS exploratory questions. The tool is intended to assess at a minimum: members' community access, services, living space and interactions with provider staff.

If a case manager determines that a member may be receiving HCBS in a setting that is not compliant with the federal HCB settings requirements, the case manager will notify the appropriate MCO staff within 24 hours of identifying an issue. The MCO will ensure the setting is reviewed to determine if it is compliant with all

applicable federal HCB settings requirements, using a tool provided to the MCOs from DMMA that builds on the CMS exploratory questions. In the event the MCO confirms the provider is not compliant:

- The MCO will report the non-compliant provider to DMMA in writing within 48 hours of confirmation of the compliance issue(s), using the Move IT file transfer system.
- The MCO will document the identified compliance issue(s) and notify the provider of the MCO's findings. The MCO will work with the provider to develop a CAP to address the compliance issue(s).
- The MCO will provide a full written report to DMMA within 10 business days of identifying the non-compliant provider including, at minimum, information regarding the identified issue(s), the MCO's findings, and any CAP(s) to remediate the issue(s).
- DMMA will review and approve all provider CAPs.

The MCO will monitor the provider's implementation of the CAP to ensure timely and appropriate action is taken. Upon completion of the CAP, the MCO will ensure the setting is reviewed to determine if it is compliant with all applicable federal HCB settings requirements. If the setting is determined compliant, the MCO will notify DMMA. The MCO will work with the provider to ensure that any non-compliant issue is completely remediated within 60 calendar days of identifying the issue.

In the event the issue cannot be resolved and the MCO determines the setting is not compliant with the federal HCB settings requirements, the case manager will work with the member to ensure continuity of care and transition to a new provider as appropriate (see additional details in *Beneficiary Relocation* above).

New providers to the system (defined as providers not assessed as part of the initial Plan assessment activities) must meet all HCB settings requirements prior to providing services to HCBS members. As prescribed by DMMA, MCOs will incorporate HCB settings requirements and timeframes into their credentialing processes. MCOs will also incorporate HCB settings requirements into their annual HCBS provider re-credentialing process, to ensure that participating HCBS providers are assessed annually to ensure continued compliance with all applicable federal requirements. The MCOs will require that any providers determined non-compliant develop a CAP that specifies all relevant remediation activities and timeframes for completion. Providers ultimately found to be unable to meet HCB settings requirements will be disenrolled from the program. Affected members will be transitioned to a new provider following the beneficiary relocation process described in the *Beneficiary Relocation* section of this Amendment.

## **DDDS**

DDDS will use a similar ongoing monitoring process and timelines as those noted above for DSHP. Details of DDDS' ongoing monitoring approach can be found in the Plan (pages 41-42). DDDS' ongoing monitoring strategy will differ from the process described above for DSHP in so far as DDDS will have primary responsibility for monitoring functions, as opposed to the MCOs for DSHP. DDDS will update DMMA on the status of identified issues (at the provider level), remediation activities and timeframes during the standing HCBS oversight quarterly meeting. This will be a standing agenda item.

The following list describes the key elements of DDDS' ongoing monitoring approach:

- The DDDS Authorized Provider Committee will be responsible for ensuring that all new waiver providers demonstrate compliance with the HCBS final rule during the credentialing process prior to enrollment.

- Hewlett Packard Enterprise, the State’s current provider enrollment contractor, will be responsible for requiring evidence that each waiver provided has been credentialed by DDDS, including compliance with HCB settings requirements, as part of the provider enrollment process.
- DDDS OQI will be responsible for monitoring compliance with the DDDS standards, which will include the HCBS requirements no later than January 2017, via two structured processes: a QSR which is performed for a sample of members and an annual site visit for all providers providing residential or day services.
- Ongoing review of provider compliance will occur during the annual provider review conducted by the DDDS OQI. This means that, while the onsite review only included a sample of the DDDS provider settings, by December 2018 all settings will have had an onsite review to assess compliance with the HCBS final rule at annual provider validation, and will also be the responsibility of the State’s provider enrollment contractor.
- DDDS will ensure that provider issues are identified timely. DDDS will develop tools for case managers to assess provider compliance issues during touch point meetings.
- When issues are identified, DDDS will require provider CAPs that will be subject to DDDS approval. DDDS will ensure that identified issues are addressed timely through the CAP process.

## **Pathways and PROMISE**

The applicable operating agencies, Delaware’s Division of Substance Abuse and Mental Health (DSAMH) for PROMISE and DDDS/Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) for Pathways, will be responsible for the ongoing monitoring activities described above and will provide updates to DMMA. The operating agencies will update DMMA on the status of identified issues (at the provider setting level), remediation activities and timeframes at the monthly Pathways status meetings.

## **Public Comments**

Amendment 1 was made available for public comment from September 30, 2016 to November 9, 2016. Three public hearings were held during this period (one each in New Castle County, Sussex County and Kent County).

The purpose of this fourth period of public comment was to receive feedback on Amendment 1, which includes updated information since the Plan was last posted for public comment from February 1, 2016 to March 22, 2016.

During the October to November 2016 public comment period, DHSS received six individual comments from two organizations: the Delaware Developmental Disabilities Council and the State Council for Persons with Disabilities. The chart in Attachment 1 provides a summary of the comments received and DHSS responses. The chart also notes the changes that were made to the Amendment in response to feedback.

## Milestones

The following chart notes the comprehensive milestones (tasks and associated timeframes) to be accomplished by DHSS to review and assess the Delaware HCBS system of care and demonstrate full compliance with all HCB settings requirements.

Milestone	Description	Proposed End Date	STP Page No.
<b>Systemic Assessment and Remediation</b>			
Completion of systemic assessment review <i>July 11, 2016</i>	<b>DSHP Demonstration:</b> Evaluate any current DMMA required training, including materials and curriculum, against the HCBS final rule.	3/31/2015 Completed	22-25, 54-57, Attachment 6
	<b>DSHP Demonstration:</b> Use survey tool to assess State policies, procedures, etc. against the HCBS final rule to determine whether policies, etc. are compliant with the final rule or whether there are gaps. Develop inventory of results.	9/17/2015 Completed	
	<b>DSHP Demonstration:</b> Conduct systemic assessment – evaluate laws, policies, standards, etc. against HCBS final rule.	9/30/2015 Completed	
	<b>DSHP Demonstration:</b> Evaluate current service definitions against the requirements of the HCBS final rule.	9/30/2015 Completed	
	<b>DSHP Demonstration:</b> Evaluate current MCO required training, including materials and curriculum against the HCBS final rule.	12/1/2015 Completed	
	<b>DDDS Waiver:</b> Use survey tool to assess for DDDS policies, procedures, etc. against the HCBS final rule to determine whether DDDS policies, etc. are compliant with the final rule or whether there are gaps.	9/17/2015 Completed	
	<b>DDDS Waiver:</b> Evaluate current waiver service definitions against the new requirements.	10/15/2015 Completed	
	<b>DDDS Waiver:</b> Identify internal policies that are not compliant and require remediation.	3/31/2016 Completed	
	<b>DDDS Waiver:</b> Identify state laws and regulations that re not compliant and require remediation.	3/31/2016 Completed	
	<b>DDDS Waiver:</b> Analyze DDDS waiver provider qualification standards and internal procedures to determine compliance with the HCBS final rule or whether there are gaps.	3/31/2016 Completed	
<b>DDDS Waiver:</b> Evaluate current DDDS required training against	Completed		

Milestone	Description	Proposed End Date	STP Page No.
	the HCBS final rule.		
	<b>DDDS Waiver:</b> Determine if the College of Direct Support curriculum has been vetted against the HCBS final rule.	Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Conduct review of Delaware landlord/tenant code vis-à-vis the final rule.	<b>DSHP:</b> 4/3/2015 Completed <b>DDDS:</b> 4/30/15 Completed	
Complete modifying rules, regulations and standards, including provider manuals, inspection manuals, procedures, laws, qualification criteria, etc.	<b>DSHP Demonstration:</b> Create explanation in plain language of tenant rights to be given to all HCBS members that reside in provider-owned or leased properties.	6/30/2015 Completed	24-25, 28-29, 56-57, 60-61, Attachment 6
	<b>DSHP Demonstration:</b> Make any necessary changes to training materials and/or curriculum to ensure compliance.	6/30/2015 Completed	
Implementation of new rules, regulations and standards: 50% complete <b>July 1, 2017</b>	<b>DSHP Demonstration:</b> Providers make any changes to any non-compliant policies, procedures, laws, regulations, etc. Changes must be approved by DMMA.	Ongoing Start date: 6/2/2016	
	<b>DSHP Demonstration:</b> Develop remediation strategies for any State laws, regulations, policies, etc. that are found not fully compliant.	7/31/2016 Completed	
Implementation of new rules, regulations and standards: 100% complete <b>July 1, 2018</b>	<b>DSHP Demonstration:</b> MCOs make any necessary changes to any noncompliant policies (must be reviewed and approved by DMMA).	11/30/2016 Completed	
	<b>DSHP Demonstration:</b> Make any necessary changes to MCO contracts.	11/30/2016 Completed	
	<b>DSHP Demonstration:</b> Make any necessary changes to State policies, procedures, laws, regulations, etc.	1/31/2017	
	<b>DSHP Demonstration:</b> MCOs make any necessary changes to required trainings (including materials and/or curriculum) to ensure compliance. DMMA must approve changes.	Ongoing Start date: 4/1/2015	
	<b>DSHP Demonstration:</b> MCOs implement new curriculum and evaluate effectiveness, as appropriate.	Ongoing Start date: 7/1/2015	
	<b>DSHP Demonstration:</b> Implement new MCO contract requirements, as appropriate.	Ongoing Start date: 11/30/2016	

Milestone	Description	Proposed End Date	STP Page No.
	<b>DDDS Waiver:</b> Create explanation in plain language of tenant rights to be given to all waiver members that reside in provider-owned or leased properties.	6/30/2015 Completed	
	<b>DDDS Waiver:</b> Change DDDS policy regarding training curriculum. Add or delete CDS modules that will facilitate staff and provider compliance with the HCBS final rule. Work with Elsevier to add new modules as necessary.	9/30/2015 Completed	
	<b>DDDS Waiver:</b> Implement new [training] curriculum as necessary.	12/31/2015 Completed	
	<b>DDDS Waiver:</b> Develop a Continuous Quality Improvement Curriculum for providers.	9/30/2016	
	<b>DDDS Waiver:</b> Make necessary changes to Division policies, procedures, laws, regulations, etc.	10/31/2016 Completed	
	<b>DDDS Waiver:</b> Make necessary changes to DDDS Provider qualification criteria, form and practices.	10/31/2016 Completed	
	<b>DDDS Waiver:</b> Develop a policy regarding aging in place.	11/1/2018	
	<b>DDDS Waiver:</b> Make necessary changes to state or DHSS policies, procedures, laws, regulations, etc.	1/31/2018	
	<b>DDDS Waiver:</b> Make necessary changes to DDDS waiver provider standards to codify expectations via the HCBS final rule.	7/1/2018	
	<b>DDDS Waiver:</b> Implement new provider standards.	7/1/2018	
	<b>DDDS Waiver:</b> Implement changes to DDDS waiver provider standards to codify expectations via the HCBS final rule.	7/1/2018	
	<b>DDDS Waiver:</b> Submit necessary changes to the DDDS HCBS waiver application to CMS to communicate and enforce expectations re: the final rule.	6 months after CMS approval	
	<b>DDDS Waiver:</b> Add QA measures in the waiver application specific to the HCBS final rule.	Within 9 months of CMS approval of the Plan	

Milestone	Description	Proposed End Date	STP Page No.
<b>Site-specific Assessment</b>			
Completion of site-specific assessment <b>February 28, 2017</b>	<b>DSHP Demonstration:</b> Develop survey instruments for providers to self-assess their policies, procedures, etc. against the HCBS final rule. Develop tool to assess State laws, regulations, codes, policies, etc. for compliance with the final rule. Work with DSHP MCOs to develop tool for MCOs to review compliance of their policies and procedures with the final rule.	7/31/2015 Completed	22, 25-28, 55-59 Amendment 1: 3-5, 6-9
	<b>DSHP Demonstration:</b> Develop a provider self-assessment tool for residential and nonresidential providers/sites.	7/31/2015 Completed	
	<b>DSHP Demonstration:</b> Conduct a pilot with selected providers to work out the bugs of the survey instrument.	7/21/2015 Completed	
	<b>DSHP Demonstration:</b> Analyze results of pilot and make corrections to the survey instrument and develop a training curriculum.	7/31/2015 Completed	
	<b>DSHP Demonstration:</b> Develop a participant survey tool.	7/31/2015 Completed	
	<b>DSHP Demonstration:</b> MCOs review their policies and internal procedures to determine compliance with the HCBS final rule; As part of the self-assessment response, MCOs will be required to submit a CAP for any policies or procedures deemed not to be fully compliant.	10/31/2015 Completed	
	<b>DSHP Demonstration:</b> Implementation of assessment: Residential and non-residential providers take the self-assessment, and MCO case managers assist participants with the participant survey.	1/1/2016 Completed	
	<b>DSHP Demonstration:</b> Collect, analyze and evaluate provider self-assessment and participant survey responses and develop report.	1/15/2016 Completed	
	<b>DSHP Demonstration:</b> Conduct review of MCO self-assessment results re: their policies and procedures and remediation strategies.	1/31/2016 Completed	
	<b>DSHP Demonstration:</b> Desk review of provider self-assessment results re: their policies and procedures and remediation strategies.	3/1/2016 Completed	
<b>DSHP Demonstration:</b> Conduct onsite look-behind reviews of all	3/31/2016		

Milestone	Description	Proposed End Date	STP Page No.
	providers.	Completed	
	<b>DSHP Demonstration:</b> Issue report of findings to providers following onsite review.	6/2/2016 Completed	
	<b>DSHP Demonstration:</b> As necessary, develop a demonstration amendment to revise any service definitions and submit amendment to CMS. Work with CMS toward approval of the amendment.	Start date: Within 9 months of CMS approval of the Plan	
	<b>DDDS Waiver:</b> Develop survey instrument to use to assess for DDS and provider (self-assessment) policies, procedures, etc. against the HCBS final rule.	7/31/2015 Completed	
	<b>DDDS Waiver:</b> Develop a provider self-assessment tool for residential and nonresidential providers/sites.	8/7/2015 Completed	
	<b>DDDS Waiver:</b> Conduct a pilot with one residential and day program to work out the bugs of the survey instrument.	8/7/2015 Completed	
	<b>DDDS Waiver:</b> 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.	9/4/2015 Completed	
	<b>DDDS Waiver:</b> Present provider self-assessment survey tool to providers and instructions for its use.	9/10/2015 Completed	
	<b>DDDS Waiver:</b> State desk reviews of provider self-assessments.	1/31/2016 Completed	
	<b>DDDS Waiver:</b> Implement a participant survey.	2/20/2016 Completed	
	<b>DDDS Waiver:</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.	3/31/2016 Completed	
	<b>DDDS Waiver:</b> Issue report of findings to providers following the provider self-assessment and desk audit.	3/31/2016 Completed	
	<b>DDDS Waiver:</b> Conduct onsite "look-behind" review of a 20% sample of providers using the review tool.	5/31/2016 Completed	
	<b>DDDS Waiver:</b> Issue report of findings to providers following onsite review.	5/31/2016 Completed	

Milestone	Description	Proposed End Date	STP Page No.
	<b>DDDS Waiver:</b> Public input will be sought for regulatory changes via the Delaware Register of Regulations.	1/31/17	
	<b>DDDS Waiver:</b> Complete participate survey.	2/28/2017	
	<b>DDDS Waiver:</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.	Start date: First review date after 7/1/16 End date: Ongoing on provider review annual anniversary date	
	<b>DSHP Demonstration and DDDS Waiver:</b> Develop process for providers to dispute findings.	<b>DSHP:</b> 3/31/2016 Completed <b>DDDS:</b> 2/26/2016 Completed	
<b>Updated Final STP</b>			
Submit final STP to CMS <b>November 21, 2016</b>	<b>DSHP Demonstration and DDDS Waiver:</b> Update STP to include the following and submit for public comment. <ul style="list-style-type: none"> <li>• Address CMS outstanding concerns</li> <li>• Incorporate results of assessments</li> <li>• Include heightened scrutiny request</li> </ul>	10/1/2016 Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Public hearings.	10/24/2016 and 10/25/2016 Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Submit updated STP to CMS for final approval.	11/21/2016 Completed	
<b>Site-specific Remediation<sup>1</sup></b>			
Completion of residential provider remediation: 25% <b>December 30, 2016</b>	<b>DSHP Demonstration:</b> DMMA sends CAP request to MCOs.	2/8/2016 Completed	28, 59-60 Amendment 1: 5-6, 9-11
	<b>DSHP Demonstration:</b> MCO CAPs due to DMMA (30 days following receipt of DMMA notice).	3/11/2016 Completed	
Completion of residential provider remediation: 50%	<b>DSHP Demonstration:</b> DMMA responds to MCO CAPs.	3/31/2016 Completed	

Milestone	Description	Proposed End Date	STP Page No.
<b>June 30, 2017</b>	<b>DSHP Demonstration:</b> DMMA sends CAP requests to providers.	6/2/2016 Completed	
	Completion of residential provider remediation: 75%	7/5/2016 Completed	
<b>December 30, 2017</b>	<b>DSHP Demonstration:</b> Providers submit CAP to DMMA (30 days following receipt of DMMA notice).	Ongoing Completed	
Completion of residential provider remediation: 100%	<b>DDDS Waiver:</b> Implement process for providers to dispute findings.	2/26/2016 Completed	
	<b>DDDS Waiver:</b> Providers submit CAP to DDDS following desk review.	4/1/2016 Completed	
Completion of nonresidential provider remediation: 25%	<b>DDDS Waiver:</b> Providers submit CAP to DDDS following onsite review.	8/15/2016 Completed	
	<b>DDDS Waiver:</b> Review and approval of provider CAPs.	9/1/2016 Completed	
	<b>DDDS Waiver:</b> Relocate individuals in residential provider settings found to be institutional in nature.	6/1/2017	
Completion of nonresidential provider remediation: 50%	<b>DDDS Waiver:</b> New model agreements for residential provider settings.	12/30/2017	
	<b>DSHP Demonstration and DDDS Waiver:</b> Completion of all MCO and Provider CAPs	7/31/2018	
Completion of nonresidential provider remediation: 75%	<b>DSHP Demonstration and DDDS Waiver:</b> Completion of identification of settings that will not remain in the HCBS System.	7/31/2018	
<b>December 30, 2017</b>			
Completion of nonresidential provider remediation: 100%			
<b>July 1, 2018</b>			

Milestone	Description	Proposed End Date	STP Page No.
<b>Heightened Scrutiny<sup>2</sup></b>			
Identification of settings that overcome the presumption and will be submitted for heightened scrutiny and notification to provider	<b>DSHP Demonstration:</b> Identify residential sites covered under HCBS that are PRESUMED NOT to be community based (e.g., Stockley).	4/30/2015 Completed	25-26, 57-58 Amendment 1: 12
	<b>DDDS Waiver:</b> Identify residential sites covered under the waiver that are PRESUMED NOT to comply with the HCBS final rule because they are not on the grounds of a public institution.	4/30/2015 Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Incorporate list of settings requiring heightened scrutiny and information and evidence referenced above into the final version of STP and release for public comment.	9/15/2016 Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Identify residential sites (including out of state) paid for with a) waiver funds or b) DSHP/demonstration funds that are likely to NOT be community based.	9/30/2015 Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Complete gathering information and evidence on settings requiring heightened scrutiny that will be presented to CMS.	10/28/2016 Completed	
	<b>DSHP Demonstration and DDDS Waiver:</b> Submit heightened scrutiny request to CMS (as part of updated Plan)	11/21/2016 Completed	

Milestone	Description	Proposed End Date	STP Page No.
<b>Relocation</b>			
<p>Complete notification of members and all parties that the setting is not in compliance with HCB settings requirements and that relocation is required: 25% <b>July 28, 2017</b></p> <p>Complete notification of members and all parties that the setting is not in compliance with HCB settings requirements and that relocation is required: 50% <b>December 29, 2017</b></p> <p>Complete notification of members and all responsible parties that the setting is not in compliance with HCB settings requirements and that relocation is required: 75% <b>May 31, 2018</b></p> <p>Complete notification of members and all parties that the setting is not in compliance with HCB settings requirements and</p>	<p><b>DSHP Demonstration and DDS Waiver:</b> Transition Remaining two waiver members off the Stockley ICF-IID grounds. A new home is being built to meet their specific needs.</p>	<p>3/30/2017</p>	<p>59, Amendment 1: 12-13</p>

Milestone	Description	Proposed End Date	STP Page No.
<p>that relocation is required: 100% <b>August 10, 2018</b></p> <p>Complete beneficiary relocation across all providers: 25% <b>January 31, 2018</b></p>	<p><b>DSHP Demonstration and DDS Waiver:</b> Completion date of notifying member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCB settings requirements and that relocation is required. (The trigger to complete the process is the 7/31/2018 completion date of identification of settings that will not remain in the system. However, notification will occur as soon as settings are identified, which will be an ongoing process.)</p>	8/10/2018	
<p>Complete beneficiary relocation across all providers: 50% <b>May 31, 2018</b></p> <p>Complete beneficiary relocation across all providers: 75% <b>September 30, 2018</b></p> <p>Complete beneficiary relocation across all providers: 100% <b>December 28, 2018</b></p>	<p><b>DSHP Demonstration and DDS Waiver:</b> Beneficiary relocation process completed.</p>	12/28/2018	

<sup>1</sup>This section includes only those providers where remediation was required.

<sup>2</sup>The first 3 Heightened Scrutiny milestones should be completed prior to resubmitting the STP to CMS (the fourth HS milestone).

**Quarterly reporting:** After the initial and final approval of the STP, CMS may request quarterly updates on the STP implementation progress. The following milestones will provide a system to monitor the submission of these reports. **NOTE:** This section will be completed by CMS following approval of the Plan.

Milestone	Description	Proposed End Date
Quarterly progress update <i>[First quarter after initial and final approval.]</i>		
Quarterly progress update <i>[Second quarter after initial and final approval.]</i>		
Quarterly progress update <i>[Third quarter after initial and final approval.]</i>		
Quarterly progress update <i>[Fourth quarter after initial and final approval.]</i>		
Quarterly progress update <i>[Fifth quarter after initial and final approval.]</i>		
Quarterly progress update <i>[Sixth quarter after initial and final approval.]</i>		
Quarterly progress update <i>[Seventh quarter after initial and final approval.]</i>		

Please use the following section to provide any additional milestones for which the State would like to provide information to CMS. These milestones are optional; any listed milestones will be tracked in the CMS website and should reflect any major progress. More incremental progress does not have to be noted.

Milestone	Description	Proposed End Date	STP Page No.
<b>Additional</b>			
<b>Rate Development</b>			
	<b>DSHP Demonstration:</b> Review rates for adequacy to support the requirements of the HCBS final rule (especially related to smaller staffing ratios in the day programs).	9/30/2016 Completed	60
	<b>DDDS Waiver:</b> Review DDDS rates for adequacy to support the requirements of the HCBS final rule (especially related to smaller staffing ratios in the day programs).	12/30/2016	
	<b>DSHP Demonstration and DDDS Waiver:</b> As appropriate, include a budget strategy related to any necessary changes to [staffing] rates [and any changes related] to any necessary changes to rates, especially related to smaller staffing ratios in the day programs.	No date	
<b>Waiver Amendments and Related Activities</b>			
	<b>DSHP Demonstration:</b> As appropriate, revise the DMAP Provider manual for changes to waiver service definitions as necessary.	No date; start date: After approval of amendment by CMS	25
	<b>DDDS Waiver:</b> As appropriate, develop a waiver amendment to revise any service definitions as necessary. Any waiver amendment will be submitted to CMS by DMMA.	No date; start date: Within 9 months of CMS approval of the Plan	

## Attachment 1: Comments from October 2016 Public Comment Period and DHSS Responses

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
1.	Assessment Activities	The commenter expressed concern that the participant survey for participants in residential settings will not be used for comparison to the provider self-assessment for another year. The commenter also expressed concern that because these participants will complete the survey during their planned person-centered reviews, they will not be given the opportunity to complete the survey in confidence or on their own.	Delaware Developmental Disabilities Council, State Council for Persons with Disabilities	DDDS acknowledges that the participant surveys were introduced later in the process than we had hoped. There was some confusion between two types of surveys conducted by DDDS. One survey is a small set of questions that are asked at the annual planning meeting that are designed to elicit whether the person is receiving services in the most integrated setting possible. This survey is at the direction of the General Assembly in the Epilogue to the Budget Act. The other survey was mailed to guardians or the person was assisted by the case manager to complete the survey if they needed assistance. The survey conducted as part of the annual planning meeting will continue as long as the legislature requires it. Recognizing the important need for continuing consumer feedback regarding implementation of the Rule, DDDS will be adding survey questions regarding the HCB Settings Rule to its routine Quality Service Review process conducted by the DDDS	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
				Office of Quality Improvement. This process surveys a random sample of DDDS waiver members each year across all providers. The survey process is described in the approved waiver application. The results of the survey are shared with providers and case managers in the aggregate. This process is continuing and on-going and will provide DDDS with trend data over time.	
2.	Assessment Activities	The commenter expressed concern that, for participants in residential settings, the survey was sent to only case managers and guardians in advance, not to participants. The commenter expressed that these participants should be given the same opportunities for preparation and confidentiality.	Delaware Developmental Disabilities Council, State Council for Persons with Disabilities	Case managers and guardians were engaged to help to facilitate completion of the participant surveys. However, case managers and guardians are not intended to be a substitute for participant feedback.	
3.	Assessment Activities	The commenter expressed that it is unclear what review has been completed on Summit Academy and St. George Academy, and whether participants receiving services at these sites have completed or will complete a participant survey.	Delaware Developmental Disabilities Council, State Council for Persons with Disabilities	Neither St. Georges Academy nor Summit Academy was included in the provider self-assessment and residents at those sites were not included in the participant survey. This is because no waiver members resided in those settings at the time the reviews were conducted and there are currently no waiver members living in those settings. The HCBS requirements only apply to those individuals enrolled in a Medicaid HCBS program such as the	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
				DDDS Waiver. Because where waiver members can live may change over time, however, DDDS included a review of the regulations for this type of facility in its Statewide Systemic Self-Assessment. DDDS has engaged in ongoing communication with any setting that involves participant relocation.	
4.	Beneficiary Relocation	Beneficiary Relocation is now discussed in the Amendment more precisely when the setting does not meet the criteria for a HCB setting. Previously, the STP discussed in detail the CAP for MCO's but little for those who lived in settings such as group homes and apartment settings. This is an improvement.	Delaware Developmental Disabilities Council, State Council for Persons with Disabilities	We acknowledge this comment.	
5.	Assessment Activities	The commenter expressed that it is still unclear what the Advisory Council for DDDS will provide for the "look behind" review process, what the process will entail, when it will be completed and how it will be reported.	Delaware Developmental Disabilities Council, State Council for Persons with Disabilities	Early on in the process of developing the initial STP, DDDS had hoped to use the Advisory Council in both an operational and also an advisory capacity for the transition, including the onsite reviews. The operational piece proved to not be feasible. Instead, DDDS used the Advisory Council as a review body for the methodology for selecting the sample of the onsite review as well as the process by which the review would be conducted. The onsite "look behind" reviews were conducted by the Office of Quality Improvement.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
6.	Reverse Integration	The commenter expressed that the Plan does not address the concept of reverse integration should any new sites utilize that effort or if existing settings offer that as a means to meet the criteria of the Settings Rule.	Delaware Developmental Disabilities Council, State Council for Persons with Disabilities	We acknowledge this comment. DHSS complies with CMS' guidance on reverse integration. On page 13 of the amendment we address reverse integration as part of ongoing monitoring. We have modified the amendment to clarify that new providers and existing providers in the system will be monitored to ensure that reverse integration does not occur.	X

## Attachment 2: CMS Feedback on Delaware's STP for Final Approval April 2017 and DHSS' Response

Please include the following information in the STP for final approval. The state does not need to submit the STP for public notice after making these technical changes.

### Public Notice

1. Please confirm that the STP amendment has been incorporated within the original STP document and that both the original STP and the amendment were available to the public during the public comment period. Since the STP amendment references the original document in multiple places, both documents are needed in order to have a full understanding of the state's plan.

**DHSS Response:** As noted on page 3, third paragraph, Amendment 1 is a supplement to and builds on the STP. The expectation is that the STP and the STP amendment are viewed together, in order to provide the reader a complete understanding of DHSS' comprehensive plan to assess all HCBS provider settings to ensure compliance with applicable federal requirements. Language has been added on page 3, second paragraph 2 to clarify this intent.

DHSS received concerns from stakeholders during previous public comment periods regarding how difficult it was to distinguish updated information from previous language. CMS also noted this as an issue. In response to these concerns, DHSS created the STP amendment to easily highlight updated information and to reflect the current status of DHSS implementation activities ongoing.

Both the original STP and the amendment were posted for review November 21, 2016. The first paragraph on page 3 of the STP amendment provides a link to the STP for all reviewers.

2. In the most recent public comments, the state received a comment requesting that the STP be translated into Spanish. Please clarify what if any steps the state is taking to ensure timely access to this plan by individuals with limited English proficiency (LEP) and persons with disabilities.

**DHSS Response:** The STP, the amendment and any additional relevant materials will be made available to persons with LEP upon request. These requests will be fulfilled within 14 business days from the date of the initial request.

### Site-Specific Assessments

#### DSHP Settings

1. Although the STP amendment indicated that the Diamond State Health Plan (DSHP) onsite review tool contained specific areas regarding heightened scrutiny and participant choice, it did not specify that each component of the federal rule would be assessed during the review. Please clarify that the state's tools and processes for assessing and validating settings encompasses all of the requirements under the federal HCBS rule.

**DHSS Response:** The site-specific assessment tool included a breakdown of each specific requirement outlined in the HCBS final rule. The tool was developed using CMS' exploratory questions as the foundation and included other relevant guidance to ensure DHSS conducted the most appropriate and thorough reviews possible.

2. Please clarify who at each setting will be interviewed as part of the onsite review process.

**DHSS Response:** DHSS determined that it was important to obtain information from the most relevant and informed staff at each provider setting. Therefore, the DMMA onsite review team met with a variety of staff at each HCB provider setting, including, but not limited to program and executive directors, administrators, program support staff, program medical staff and social workers. Also, as an additional validation measure, members were selected at random and were interviewed during onsite reviews. Page 5 of the STP amendment has been updated to reflect this information.

3. The STP amendment indicates that the site-specific assessments revealed that several Assisted Living provider settings utilize certain restrictive characteristics regarding privacy in member units. Please provide more detailed information describing what these restrictive characteristics are, how they impact setting compliance with the federal HCBS rule, and what remedial actions will be taken to assure these characteristics do not impede setting compliance with the HCBS requirements by the end of the transition period.

**DHSS Response:** The DMMA onsite review team found that several Assisted Living Facility (ALF) provider settings did not allow residents to lock their bathroom doors within their individual units. As appropriate, the issue was included in the CAP for each relevant provider setting and was remedied timely by installing lockable bathroom doors within all units.

4. Please provide more information explaining how Adult Day Services providers will transform to come into compliance with the rule and provide adequate community engagement for participants.

**DHSS Response:** Several of our Adult Day Care (ADC) provider settings structured their programs as though the program itself was a community-based activity for participants. This meant that all program activities and services were provided within the confines of the physical space occupied by the ADC. As a result, DMMA found that the programs were not fully compliant with the HCB settings requirements. DMMA worked closely with these providers to help them understand the federal requirements. The providers were able to implement internal policy and program changes to incorporate opportunities for members to choose the types of activities and integration desired, both within and outside of the walls of the program. Additionally, providers planned community activities based on feedback and input from participants and their families.

5. The state provided a table on page 69 of the STP illustrating discrepancies in provider and member assessment responses across three setting types under the DSHP demonstration. The STP indicates that there is a "difference" column indicating the difference in compliance score between provider

and member responses. Please include this column in the table or delete the language stating there is a difference column.

**DHSS Response:** The language has been deleted from the STP.

### **DDDS Settings**

6. Since the Division of Developmental Disabilities Services (DDDS) participant surveys have not been completed, and only 20% of sites received an onsite review, there are a substantial number of sites that were validated through the desk review alone. Please confirm that the desk review process was able to validate the results of the self-assessment for all federal requirements for the remaining 80% of sites that did not receive an onsite review.

**DHSS Response:** The participant surveys have now all been completed. The information gathered from the surveys was fed back into the review of the settings and any issues that required follow-up or remediation were addressed with the provider. The desk review process was able to validate the results of the 80% of settings that did not receive an onsite review.

DDDS has now fully integrated the requirements under the final rule into its provider standards. Over time, all of the settings that were not initially selected for the onsite review will have an onsite review using the new provider standards through the DDDS Quality Service Review (QSR) process. For any HCBS requirement that is not in compliance, the provider must create a CAP, which is followed-up with a monthly progress report from providers to DDDS staff.

7. The amendment notes that Shared Living settings were not included in the onsite review. Please explain why these settings were not included and how the state validated the results of these settings' self-assessment surveys.

**DHSS Response:** Because shared living is delivered in a family's home, DDDS believes that these settings embody the characteristics of "home and community based settings". There are already many touchpoints in the DDDS quality oversight structure for these settings that provide DDDS the opportunity to assess the health, safety and wellbeing of each resident, as well as the characteristics of each individual setting against the final rule, including:

- Quarterly Case Manager face-to-face contacts each year, two of which must be in the home.
- Monthly monitoring by the Case Manager.
- Monthly visits by a Nurse Consultant (where applicable) to review recipient medical records
- Quarterly visits by a Behavior Consultant for those individuals that have a Behavior Support Plan.
- Annual onsite inspections from the Delaware Division of Long Term Care Residents Protection for homes that have more than one DDDS client and are required to be licensed.

In addition to the monitoring above, the DDDS Shared Living Coordinators also conduct annual onsite inspections and compliance monitoring each year before the annual contracts are renewed. The Office of Quality Improvement then applies heightened monitoring of settings that have been determined

deficient and have been required to develop a CAP until the specified CAP has been verified. The DDDS Shared Living Coordinators and staff from the DDDS Office of Quality Improvement jointly performed the desk review of the Shared Living settings.

Being respectful of the privacy of these families, who have welcomed an individual with intellectual developmental disabilities to share their home, DDDS felt that there was little to be gained by another onsite visit for the purpose of the Statewide Transition Plan.

8. Please specify whether the DDDS participant survey includes questions that address each component of the federal requirement.

**DHSS Response:** As noted on pages 32 and 33 of the STP, DDDS formed a work group comprised of families, advocates, and other community stakeholders to develop the participant survey. The group decided to create two surveys, one related to the experience of the individual in their residential setting and another related to the experience of the individual with their day program. At the time this survey was launched, waiver members and their families were also being surveyed with the National Core Indicators and a survey required by the Delaware General Assembly. The work group was concerned that participants were being overwhelmed with surveys and tried to keep the participant survey to the minimum information that could validate the provider self-assessments.

The Governor's Advisory Council to DDDS approved the participant surveys before they were distributed. The questions that were asked in the participant surveys and the crosswalk to the requirements under the final rule are attached to the STP amendment (see Attachment 3). Upon review, DDDS discovered that some of the requirements under the final rule were not included in the participant surveys. The surveys were modified to address these gaps.

While DDDS felt the work group process added value to the survey, it also lengthened the time necessary to develop the survey. The desk review actually was completed prior to the surveys being distributed, so DDDS was not able to use the participant survey to validate the results of the provider self-assessment as we had hoped.

9. The final site-specific setting assessment results indicate that 27 Day Habilitation settings and 429 Residential Habilitation settings can comply with modifications. Please provide more details regarding what types of changes are needed for these settings to come into compliance.

**DHSS Response:** For Residential Settings, the primary modifications needed were:

1. Providing individuals an opportunity to have a keyed lock on their bedroom door
2. Providing individuals choice for meals
3. Providing individuals consistent and easy access to their personal funds.
4. Providing individuals with choice of with whom they live.
5. Providing individuals with choice of where they live.

For Day Services, the primary modifications needed were:

1. Providing individuals a choice in what time to eat lunch
2. Providing individuals more choice about what activities to do during the day
3. Providing individuals more choice of employment opportunities
4. Providing individuals with more opportunity for integration with non-disabled populations.
5. Providing individuals more than one community activity option when community activities were offered.

All providers were/are required to submit a CAP as part of the self-assessment and desk review. During the annual provider audit conducted by the DDDS Office of Quality Improvement (OQI), the DDDS Program Evaluator reviews the CAP for progress and implementation of solutions.

Any requirements for modification that were not met during the annual review are cited on the reauthorization report. The provider must then create or modify the CAP and file monthly progress reports with DDDS staff.

DDDS issued new Provider Standards in January 2017 that fully integrate the requirements under the HCBS final rule. All sites are now reviewed against these new Standards.

### **General**

10. There is a concern that the state is confusing the choice of a non-disability specific setting with choice of a “non-disability specific provider.” The latter term, used in the STP amendment, could result in planning that is inconsistent with the Federal rule. The state should clarify that individuals are able to live and receive services in settings that are non-disability specific.

**DHSS Response:** Participants have the choice of where they would like to receive services and that choice includes private residences and non-disability specific settings. The amendment has been updated on page 14 to clarify that individuals are able to live and receive services in settings that are non-disability specific.

### **Ongoing Monitoring**

11. The STP amendment asserts that checking whether a setting is using reverse integration as its only practice for providing access to the broader community will be a component of the ongoing monitoring process. Please explain in the amendment how the state will measure or document as part of the ongoing monitoring process how a setting is meeting the community integration requirements outlined in the federal HCBS rule (for example, documenting other strategies being deployed by a setting to promote community integration).

**DHSS Response:** The amendment has been updated on page 14 to clarify that DHSS will employ multiple measures to monitor HCBS provider setting compliance with community integration requirements. Assessing the level of community integration is a high priority of the DDDS quality assurance and service monitoring processes. DDDS performs quality reviews at provider sites and through the electronic case record (ECR), verifies that each agency has a policy and each site has procedure to facilitate community integration, checks the person-centered plan against ECR for provision of evidence of community integration activities, and has a robust system for addressing rights violations involving withholding of free access to the community.

12. The STP indicates that the state will rely on survey results from other states to assure that any Delaware individuals are receiving HCBS in appropriate settings. Please explain how the state will reach out to other states to gain access to any out-of-state setting assessment/validation results.

**DHSS Response:** At the time the HCB settings rule was implemented, DDDS waiver members lived in four states in addition to Delaware: Maryland, Pennsylvania, New Jersey and Massachusetts. The Massachusetts setting was the subject of a Medicaid Fair Hearing case for the two DDDS waiver members residing there, so nothing was done until the Fair Hearing was concluded.

DDDS has contacted the DD Directors in the other states to find out which settings would have naturally been assessed against the requirements of the Rule by the other state. DDDS is working with DD Administrators in those states to ensure that the other state's assessment is in alignment with the Delaware assessment. For those settings that would not have otherwise been surveyed by the other state, DDDS sent the Delaware provider self-assessment to the provider/setting for completion. Maryland will be completing the assessments for the five settings in which DDDS waiver members reside. In the most recent communication with Maryland in March 2017, they indicated that they have completed the assessments of all of the settings and are compiling the data. They will send it to us as soon as it is available. Pennsylvania indicated that they did not intend to survey their HCB settings but would ensure that all settings were fully compliant by the upcoming renewal date of two of their HCBS waivers, so Delaware surveys were sent to all Pennsylvania settings. DDDS recently discovered that surveys were not sent to all of the out of state settings as they should have been. These surveys were only recently sent to the providers and follow up calls were made to the DD agency. Once the surveys are returned to Delaware, DDDS will complete a desk review and identify whether any of the settings require an onsite review.

### Attachment 3: Crosswalk Between Federal Requirements and DDDS Participant Survey Questions

Residential Setting Requirements		Participant Survey Questions
1	The setting was selected by the individual.	1, 2, 3
2	The individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services.	6, 7, 8, 10
3	The individual is employed or active in the community outside of the setting.	-
4	The individual has his/her own bedroom or shares a room with a roommate of choice.	4
5	The individual chooses and controls a schedule that meets his/her wishes in accordance with a person-centered plan.	9
6	The individual controls his/her personal resources.	-
7	The individual chooses when and what to eat.	-
8	The individual chooses with whom to eat or to eat alone.	-
9	Individual choices are incorporated into the services and supports received.	8, 9
10	The individual chooses from whom they receive services and supports.	2, 9
11	The individual has access to make private telephone calls/text/email at the individual's preference and convenience.	-
12	Individuals are free from coercion.	-
13	The individual, or a person chosen by the individual, has an active role in the development and update of the individual's person-centered plan.	9
14	The setting does not isolate individuals from individuals not receiving Medicaid HCBS in the broader community.	8
15	State laws, regulations, licensing requirements, or facility protocols or practices do not limit individuals' choices.	-
16	The setting is an environment that supports individual comfort, independence and preferences.	-
17	The individual has unrestricted access in the setting.	6, 7
18	The physical environment meets the needs of those individuals who require supports	-
19	Individuals have full access to the community.	8
20	The individual's right to dignity and privacy is respected.	13
21	Individuals who need assistance to dress are dressed in their own clothes appropriate to the time of day and	-

	individual preferences.	
22	Staff communicates with individuals in a dignified manner.	12

Assessment of Non-Residential HCBS Settings		SUPPORTED EMPLOYMENT	PRE VOCATIONAL	DAY HABILITATION
		Survey Questions	Survey Questions	Survey Questions
1	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)	1, 2, 5, 6	1, 3, 4, 5, 6, 7, 8	1, 2, 3, 4, 5, 7, 8
2	The setting is selected by the individual from among setting options including nondisability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/441.710(a)(1)(ii)/441.530(a)(1)(ii)	4, 5,	-	2, 3, 4, 5, 6, 7, 8
3	The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)	7, 8, 9, 10	9, 10, 11, 12	11,
4	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)	7, 8, 9, 10	3, 5, 6, 7, 8, 10, 12	2, 3, 4, 5, 6, 7, 8
5	The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)	2, 3, 4, 5, 6	3, 5, 6, 7, 8, 10, 12	2, 3, 4, 5, 6, 7, 8

## **Residential Participant Survey Questions**

1. Did you choose where to live?
  2. Did you visit other types of residential settings to see if you liked them before making your choice of where to live?
  3. Do you like living in this home or would you like to move?
  4. Did you choose who you live with?
  5. Is your home physically accessible for you?
  6. Do you have a key to your home?
  7. Do you go out when you want?
  8. Do you go out to shop, out to eat, church, the gym, etc.?
  9. Do you participate in your IP (ELP) planning meeting?
  10. Can you see your family and friends when you want to?
  11. Can you spend your own money?
  12. Does staff at home or work treat you with respect?
  13. Do you have enough privacy at home?
- 

## **Non Residential Participant Survey Questions**

### **Supported Employment**

1. Do you have a paid job in the community?
2. Who chose (or picked) the place you work? (Did you help make the choice?)
3. Are you working as much as you would like?
4. Do you like working there?
5. Would you like to work somewhere else? (Would you like a different job instead of this one?)
6. Are you taking classes, training, or doing something to help you get a better job?
7. Do people who are helping you during the day listen to what you say?
8. Does your support staff ask what you want? (Does your support staff ask what is important to you?)
9. Does your staff treat you with respect? (Do they listen and talk to you?)
10. Are services and supports helping you to live a good life?

### **Pre Vocational**

1. What do you do during the day?
2. Do you go to a program or workshop (program or center where other people with disabilities work?)
3. Would you like to go more or less to the workshop/program/center?
4. Do you volunteer?
5. Would you like to have a paid job in the community?
6. Are you taking classes, training, or doing something to help you get a job
7. Do you get to do the things you like to do as much as you like
8. Do you get to pick who you do activities or go places with?
9. Do people who are helping you during the day listen to what you say
10. Does your support staff ask what you want? (Does your support staff ask what is important to you?)

11. Does your staff treat you with respect? (Do they listen and talk to you?)
12. Are services and supports helping you to live a good life?

### **Day Habilitation**

1. What do you do during the day?
2. Do you go to a program or center with other people with disabilities?
3. Would you like to go more or less to the program/center
4. Do you volunteer?
5. Would you like to have a paid job in the community
6. Are you taking classes, training, or doing something to help you do more things on your own?
7. Do you get to do the things you like to do as much as you like
8. Do you get to pick who you do activities or go places with?
9. Do people who are helping you during the day listen to what you say?
10. Does your support staff ask what you want? (Does your support staff ask what is important to you?)
11. Does your staff treat you with respect? (Do they listen and talk to you?)
12. Are services and supports helping you to live a good life?