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# Home and Community-Based Services (HCBS) Statewide Transition Plan

*Independent. Integrated. Individual.*

February 26, 2015

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# **South Carolina Department of Health and Human Services (SCDHHS) Home and Community-Based Services (HCBS) Statewide Transition Plan**

## **Introduction**

The Center for Medicare and Medicaid Services (CMS) issued a final rule on Home and Community-Based Services (HCBS) establishing certain requirements for home and community-based services that are provided through Medicaid waivers. There are specific requirements for where home and community-based services are received which will be referred to as the “settings requirements.”

CMS requires that each state submit a “Statewide Transition Plan” by Mar. 17, 2015. The Statewide Transition Plan outlines how the state will come into conformance and compliance with the HCBS Rule settings requirements. States must come into full compliance with the HCBS Rule requirements by Mar. 17, 2019.

The South Carolina Department of Health and Human services (SCDHHS) has branded this effort under its Healthy Connections Communities division. Additionally, SCDHHS has developed a specific tagline for HCBS: *Independent•Integrated•Individual*. This tagline was developed because home and community-based services will help our members be independent, be integrated in the community, and be based on what is best for the individual.

The Statewide Transition Plan applies to all settings where home and community-based services are received. In South Carolina, the home and community-based services are currently offered through the following waiver programs:

- Intellectual Disabilities and Related Disabilities waiver (ID/RD)
- Community Supports waiver (CS)
- Head and Spinal Cord Injury waiver (HASCI)
- Pervasive Developmental Disorder waiver (PDD)
- Medically Complex Children’s waiver (MCC)
- Community Choices (CC) waiver
- HIV/AIDS waiver
- Mechanical Ventilator Dependent waiver
- Psychiatric Residential Treatment Facility (PRTF) Alternative/Children’s Health Access in Community Environments (CHANCE) waiver

Per CMS requirements, this Statewide Transition Plan was made available for the public to read and comment on before being submitted to CMS for review. This plan may change as the state goes through the process of coming into compliance with the HCBS Rule. If this plan undergoes any substantive changes after submission to CMS, the state will make it available again for public comment and input.

CMS has listed the following as the requirements of home and community-based settings. They must have the following qualities (per 42 CFR 441.301 (c)(4)):

- 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.
- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board
- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- 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.
- Facilitates individual choice regarding services and supports, and who provides them.

CMS has also listed the following as settings that are not home and community based (per 42 CFR 441.301 (c)(5)):

- A nursing facility
- An institution for mental diseases (IMD)
- An intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- A hospital
- Any other settings that have the qualities of an institutional setting. This includes:
  - Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment
  - Any setting in a building on the grounds of, or immediately adjacent to, a public institution
  - Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS

Any of the above settings will be presumed to be a setting that has the qualities of an institution unless the Secretary of the US Department of Health and Human Services (the Secretary) determines through heightened scrutiny, based on information presented by the State or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

It is with these requirements in mind that SCDHHS developed its transition plan.

## **Communications and Outreach – Public Notice Process**

### **Statewide Plan Development**

SCDHHS formed a workgroup to address and solicit input on how the state could come into compliance with the HCBS rule. This group is composed of members from:

- SC Department of Health and Human Services
- SC Department of Mental Health
- SC Department of Disabilities and Special Needs
- SC Vocational Rehabilitation Department
- Advocacy groups:
  - AARP
  - Family Connections
  - Protection & Advocacy
- Providers:
  - Local Disabilities and Special Needs Boards
  - Housing providers for the mentally ill population
  - Adult Day Health Care Providers
  - Private providers of Medicaid and HCBS services
- Beneficiaries and family members

The large workgroup broke into sub-groups to address different tasks of coming into compliance with the HCBS Rule. The large group meets monthly to discuss the progress of the sub-groups and to examine issues, concerns and the overall vision of how the state can come into compliance with the new regulation.

### **Public Notice and Comment on Statewide Transition Plan**

SCDHHS used multiple methods of public notice and input for the Statewide Transition Plan.

- Eight statewide public informational meetings were held that provided an overview of the HCBS Rule and the Statewide Transition Plan. Those dates and locations were:
  - Sept. 3, 2014                      Aiken, SC
  - Sept. 11, 2014                    Orangeburg, SC
  - Sept. 16, 2014                    Anderson, SC
  - Sept. 25, 2014                    Lyman, SC
  - Oct. 2, 2014                        Myrtle Beach, SC
  - Oct. 9, 2014                        Greenwood, SC
  - Oct. 16, 2014                      Beaufort, SC
  - Oct. 21, 2014                      Rock Hill, SC

Emails with an attached flyer containing information about the plan were sent out to individual providers, advocate groups and state agencies. Those entities shared the information with their networks, including beneficiaries. A general notification of these meetings was also printed in SCDHHS' member newsletter; all Medicaid members receive this newsletter.

- A website specific to the HCBS Rule was developed and went live on Sept. 4, 2014. URL: [scdhhs.gov/hcbs](http://scdhhs.gov/hcbs). It contains the following content:
  - Meeting dates, times, and locations
  - Information on the HCBS workgroup, including meeting minutes and mid-month updates
  - Formal presentation delivered at the eight public informational meetings above
  - Draft of the Statewide Transition Plan
  - A comments page where questions and comments may be submitted on the HCBS Rule and/or the Statewide Transition Plan
- Tribal Notification was provided on Oct. 27, 2014. A Tribal Notification conference call for the Statewide Transition Plan was held Oct. 29, 2014.
- The Medical Care Advisory Committee (MCAC) was provided an advisory on the Statewide Transition Plan on Nov. 12, 2014.
- Public notice for comment on the Statewide Transition Plan, along with the plan itself, was posted on the SCDHHS HCBS website on Nov. 7, 2014 ([msp.scdhhs.gov/hcbs/site-page/about](http://msp.scdhhs.gov/hcbs/site-page/about) AND [msp.scdhhs.gov/hcbs/resource/additional-resources](http://msp.scdhhs.gov/hcbs/resource/additional-resources)) and on the SCDHHS website on Nov. 10, 2014 ([scdhhs.gov/public-notices](http://scdhhs.gov/public-notices)).
- Public notice for comment on the statewide transition plan was sent out via the SCDHHS listserv on Nov. 7, 2014.
- Four public meetings were held in November and December of 2014 to discuss the statewide transition plan. These meetings were held in the following cities:
  - Nov. 13, 2014                      Florence, SC
  - Nov. 18, 2014                      Greenville, SC
  - Dec. 2, 2014                        Charleston, SC
  - Dec. 4, 2014                        Columbia, SC
- For those unable to attend a public meeting, a live webinar was held on Wednesday, Nov. 19, 2014. This meeting was recorded and made available for viewing, along with a transcript of the recording, on the Family Connections of SC website: <http://www.familyconnectionsc.org/webinars.html>
- Comments were gathered from the public meetings listed above (the eight in September and October as well as those in November and December), from electronic communications sent to SCDHHS and from communications mailed to SCDHHS.
- SCDHHS reviewed the comments and incorporated any appropriate changes to the Statewide Transition Plan. A summary of the public comments is included with this Statewide Transition Plan submitted to CMS in February 2015.

South Carolina's revised HCBS Statewide Transition Plan, as submitted to CMS, is posted in the following locations:

[scdhhs.gov/public-notices](http://scdhhs.gov/public-notices)

[msp.scdhhs.gov/hcbs/site-page/statewide-transition-plan](http://msp.scdhhs.gov/hcbs/site-page/statewide-transition-plan)

### **Communication During the Implementation of the Statewide Transition Plan**

SCDHHS will continue to hold monthly HCBS workgroup meetings and/or communicate to the workgroup monthly via email. This communication keeps stakeholders informed of the

progress made during the implementation of the Statewide Transition Plan. Additionally, SCDHHS will publish on its main website and its HCBS website an annual update on transition plan activities. This update will also be made available in SCDHHS county offices and shared with interested stakeholders. These communication efforts should allow for ongoing transparency and input from stakeholders on the HCBS Statewide Transition Plan.

As noted in the guidance and Questions and Answers documents provided by CMS, any substantive changes in an approved Statewide Transition Plan will require the state to go through the public notice and comment process again.

## **Assessment of System-Wide Regulations, Policies, Licensing Standards, and Other Regulations**

### **Process of System-Wide Review**

SCDHHS compiled a list of the laws, regulations, policies, standards, and directives that directly impact home and community-based settings. The list was vetted through the appropriate leadership at SCDHHS, the South Carolina Department of Disabilities and Special Needs (SCDDSN), and other stakeholders to ensure that it was complete.

The list of laws, regulations, etc., was separated according to HCB setting. They were read and reviewed to determine that the law, regulation, etc. is not a barrier to the settings standards outlined in the HCBS Rule. The settings for South Carolina are divided as follows:

- Day Facilities (primarily serving individuals with intellectual disabilities or related disabilities, or individuals with Head and Spinal Cord Injuries)
- Adult Day Health Care Centers (primarily serving frail elderly individuals, or individuals with physical disabilities)
- Residential settings (serving individuals with intellectual disabilities or related disabilities that are served through the ID/RD Waiver):
  - Community Training Home I
  - Community Training Home II
  - Supervised Living Program II
  - Supported Living Program I
  - Community Residential Care Facilities (also serve individuals in the Community Choices waiver and the HIV/AIDS waiver)

A report was developed detailing the relevant laws, regulations, policies, standards, and directives that correspond with each HCBS settings requirement. A committee of external stakeholders (including providers, advocates, and other state agencies) reviewed the system-wide assessment and document. That group provided feedback to verify the findings of the SCDHHS review.



## Outcomes of System-Wide Review

The following standards, rules, requirements, law, regulations, and policies were assessed:

1. [Adult Protection, S.C. Code Ann. §§ 43-35-5 et seq.](#)
2. [Department of Health and Human Services, S.C. Code Ann. §§ 44-6-10 et seq.](#)
3. [South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act, S.C. Code Ann. §§ 44-20-10 et seq.](#)
4. [Rights of Mental Health Patients, S.C. Code Ann. §§ 44-22-10 et seq.](#)
5. [Rights of Clients with Intellectual Disability, S.C. Code Ann. §§ 44-26-10 et seq.](#)
6. [Bill of Rights for Residents of Long-Term Care Facilities, S.C. Code Ann. §§ 44-81-10 et seq.](#)
7. [Community Residential Care Facilities, S.C. Regs. 61-84](#)
8. [Day Care Facilities for Adults, S.C. Regs. 61-75](#)
9. [Department of Disabilities and Special Needs, S.C. Regs. Chapter 88](#)
10. [Department of Health and Human Services S.C. Regs. Chapter 126](#)
11. [SCDDSN Standards](#)<sup>1</sup>
  - a. SCDDSN Day Standards (All services)
  - b. SCDDSN Residential Habilitation Standards
  - c. SCDDSN Residential Licensing Standards
  - d. Licensing Day Facilities Standards
  - e. CLOUD Licensing Standards
  - f. HASCI Division Rehabilitation Supports Standards
12. [SCDDSN Directives](#)<sup>2</sup>
  - a. Behavior Support, Psychotropic Medications, and Prohibited Practices (600-05-DD)
  - b. SCDDSN Certification & Licensure of Residential & Day Facilities and New Requirements For DHEC Licensed CRCFs (104-01-DD)
  - c. Concerns of People Who Receive Services: Reporting and Resolution (535-08-DD)
  - d. Confidentiality of Personal Information (167-06-DD)
  - e. Consumer Elopement (100-10-DD)
  - f. Critical Incident Reporting (100-09-DD)
  - g. SCDDSN Quality Assurance Reviews for Non-ICF/ID Programs (104-03-DD)
  - h. SCDDSN Waiting List (502-02-DD)
  - i. Death or Impending Death of Persons Receiving Services from SCDDSN (505-05-DD)
  - j. Family Involvement (100-17-DD)
  - k. Human Rights Committee (535-02-DD)
  - l. Individual Clothing and Personal Property (604-01-DD)
  - m. Individual Service Delivery Records Management (368-01-DD)

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<sup>1</sup> All SCDDSN standards were reviewed for relevancy to the home and community-based services regulations, but only the relevant standards were included within this summary.

<sup>2</sup> All SCDDSN directives were reviewed for relevancy to the home and community-based services regulations, but only the relevant directives were included within this summary.



- n. Insuring (*sic*) Informed Choice in Living Preference for Those Residing in ICFs/ID (700-03-DD)
- o. Management of Funds for People Participating in Community Residential Programs (200-12-DD)
- p. Obtaining Consent for Minors and Adults (535-07-DD)
- q. Personal Funds Maintained at the Residential Level (200-01-DD)
- r. Preventing and Responding to Disruptive Behavior and Crisis Situations (567-04-DD)
- s. Preventing and Responding to Suicidal Behavior (101-02-DD)
- t. Procedures for Preventing and Reporting Abuse, Neglect, or Exploitation of People Receiving Services from DDSN or a Contract Provider Agency (534-02-DD)
- u. Review and Approval of Research Involving Persons Receiving Services from or Staff Employed by the SC Department of Disabilities and Special Needs (535-09-DD)
- v. Sexual Assault Prevention, and Incident Procedure Follow-up (533-902-DD)
- w. Social-Sexual Development (536-01-DD)
- x. Supervision of People Receiving Services (510-01-DD)
- y. Transition of Individuals from SCDDSN Regional Centers to Community (502-10-DD)
- 13. [SCDDSN Policy Manuals](#)
  - a. Day Services Manual
  - b. Head and Spinal Cord Injury (HSCI) Waiver Manual
  - c. Intellectual Disability and Related Disabilities (ID/RD) Waiver Manual
  - d. Pervasive Developmental Disorder Waiver Manual
  - e. Community Supports (CS) Waiver Manual
  - f. Human Rights Committee Training Resource Manual
- 14. [SCDHHS Provider Manuals](#)
  - a. CLTC Provider Manual
  - b. SC Medicaid Policy and Procedures Manual

After reviewing these sources, SCDHHS identified the following areas as not being fully compliant with the Federal settings regulations and will seek specific action to come into compliance:

1. **SC Code Ann. § 44-20-420:** *"The director or his designee may designate the service or program in which a client is placed. The appropriate services and programs must be determined by the evaluation and assessment of the needs, interests, and goals of the client."*
  - a. This law is only partially compliant with 42 C.F.R. 441.301(c)(4)(iv). Having the director or his designee designate the services or program in which a client is placed does not optimize an individual's initiative, autonomy, and independence in making life choices. However, this law only gives the director the authority to designate services or programs for an individual and does not mandate that they do so, and because of that, SCDHHS does not foresee having to ask the South Carolina General Assembly to make changes to this law. Additionally, the effect of this law is

mitigated by the person-centered service process that places an individual in the center of the service planning process and empowers them to make their own choices as to which services they are provided and by whom.

2. **SC Code Ann. § 44-20-490:** *“When the department determines that a client may benefit from being placed in an employment situation, the department shall regulate the terms and conditions of employment, shall supervise persons with intellectual disability, a related disability, head injury, or spinal cord injury so employed, and may assist the client in the management of monies earned through employment to the end that the best interests of the client are served.”*
  - a. This law is not compliant with 42 C.F.R. 441.301(c)(4)(iv). Having the director or his designee determine that a client may benefit from being placed in an employment situation, and then regulating the term and conditions of that employment does not optimize an individual’s initiative, autonomy, and independence in making life choices. The language of this statute reflects the role given to SCDDSN under current legislation. While it may not reflect policy or practice within the disabilities community, it may be mitigated through policy changes at the administrative level to better reflect current practices and to ensure an individual’s autonomy is not curtailed. Administrative action will be explored prior to seeking any legislative action.
3. **SCDDSN Day Services Standards & SCDDSN Waiver Policy Manuals:**  
*Day/Support/Community Services “will only be provided in or originate from facilities licensed by SCDDSN as Day Facilities. SCDDSN Day Services will only be provided by SCDDSN qualified Day Service providers.”*
  - a. This standard/policy is not fully compliant with 42 C.F.R. 441.301(c)(4)(ii). Having day services only provided or originating from facilities licensed by SCDDSN does not give an individual the option to select a non-disability specific setting in which to receive this service. It is recommended that this standard be updated to comply with federal regulations.
4. **SCDDSN Waiver Policy Manuals:** *“Career Preparation Services will only be provided in or originate from facilities licensed by SCDDSN as Day Facilities.”*
  - a. This standard/policy is not fully compliant with 42 C.F.R. 441.301(c)(4)(ii). Having day services only provided or originating from facilities licensed by SCDDSN does not give an individual the option to select a non-disability specific setting in which to receive this service. It is recommended that this policy be updated to comply with federal regulations.
5. **SCDDSN Directive 200-01-DD, Personal Funds Maintained at the Residential Level:** *“A locking cash box shall be maintained in a secure location at each residence for the sole purpose of securing cash for the people living there. Access to the cashbox shall be limited to a minimum level of staff.”*
  - a. This directive is not fully compliant with 42 C.F.R. 441.301(c)(4)(i) and is not fully compliant with 42 C.F.R. 441.301(c)(4)(iv). Storing an individual’s personal cash in a

cash box collectively with other residents' money, and that cash box is only accessible by a limited number of staff, does not optimize an individual's autonomy and does not allow an individual to control personal resources. This places a barrier on an individual's free use of their own money and may create a situation where an individual has to justify the use of their own money to a staff member to gain access to it. There may be situation where an individual may not be able to personally manage their own funds without causing harm to themselves, but this needs to be documented in their person centered service plan. Having a directive that applies to all individuals may unnecessarily restrict an individual's autonomy and control over their own resources. It is recommended that this directive be updated to comply with federal regulations.

6. **SCDDSN Directive 200-120-DD, Management of Funds for People Participating in Community Residential Programs:** *"Personal funds should be managed under the direction of the provider except in the following situations: 1) A different representative payee has already been established for a person, or 2) An assessment of the person's abilities clearly demonstrates that he/she has the cognitive ability and financial skills to manage his/her funds."*
  - a. This directive is not fully compliant with 42 C.F.R. 441.301(c)(4)(i) and is not fully compliant with 42 C.F.R. 441.301(c)(4)(iv). Having the default protocol put an individual's personal funds under the control of the provider does not optimize an individual's autonomy and does not allow an individual to control personal resources. There may be a situation where an individual, or their personal representative, consents to having the provider act as the representative payee for personal funds, but this should be the exception and not the rule as it is currently stated in this directive. It is recommended that this directive be updated to comply with federal regulations.
7. **SCDDSN Directive 533-902-DD, Sexual Assault Prevention, and Incident Procedure Follow-up:** *"The family/guardians/family representative of both alleged perpetrator and victim should be notified of the incident as soon as possible by the Facility Administrator/Executive Director (or designee)."*
  - a. This directive is not fully compliant with 42 C.F.R. 441.301(c)(4)(iii) and it is not fully compliant with 42 C.F.R. 441.301(c)(4)(iv). It is recommended that this directive and any underlying statutes be reviewed to determine if revisions are necessary to comply with federal regulations.
8. **SCDHHS Policy, Waiver Documents, and SCDDSN Medicaid Waiver Policy Manuals Medicaid HCB Waiver Policy Regarding Waiver Services Provided while Clients Travel Out-of-State:** *"[...] Waiver participants may travel out of state and retain a waiver slot under the following conditions: the trip is planned and will not exceed 90 consecutive days; the participant continues to receive a waiver service consistent with SCDDSN policy; the waiver service received is provided by a South Carolina Medicaid provider; South Carolina Medicaid eligibility is maintained. During travel, waiver services will be*

*limited to the frequency of service currently approved in the participant's plan. Services must be monitored according to SCDDSN policy. The parameters of this policy are established by SCDHHS for all HCB Waiver participants."*

- a. This policy does not specifically touch on any of the home and community-based settings requirements, but it may be an unnecessary restriction on an individual with disabilities. This policy may need further review.

All other laws, regulations, standards, directives, and policies reviewed were either supporting of or not objecting to the home and community-based settings regulations and no further action needs to be taken.

### **Actions to Bring System into Compliance**

For any relevant state laws that do not meet the HCBS settings requirements outlined in the CFR, changes will be pursued as appropriate and noted above.

For any relevant regulations that do not meet the HCBS settings requirements outlined in the CFR, changes will be pursued as appropriate and noted above and in accordance with the ["Regulatory Process in South Carolina"](#)

For any relevant SCDHHS policies that do not meet the HCBS setting requirements outlined in the CFR, SCDHHS will utilize its internal process for initiating or revising policies.

For any relevant external policies, standards, or directives that do not meet the HCBS setting requirements outlined in the CFR, SCDHHS will work with the appropriate external agency to revise them to reflect the standards in the CFR.

### **Ongoing Compliance of System**

Compliance will be monitored on an on-going basis per SCDHHS policies. This includes, but is not limited to, SCDHHS internal policy review process, provider enrollment and revalidation requirements as well as program area policies, quality assurance standards and indicators, and provider qualification requirements.

## **Assessment of Settings**

### **Setting Types**

There are three primary settings where home and community-based services are provided in the nine waiver programs, excluding private residences:

**Day Facilities.** There are approximately 90 Day Activity Facilities most of which are licensed as an Adult Activity Center (AAC) and/or a Work Activity Center (WAC).

**Adult Day Health Cares (ADHC).** There are approximately 81 Adult Day Health Care settings, utilized in various waivers.

**Residential Homes.** There are approximately 1200 residential settings, largely provided through the ID/RD waiver, and there are five types of residential settings.

***Supervised Living Program II (SLP II).*** This model is for individuals who need intermittent supervision and supports who are able to achieve most daily activities independently but periodically may need advice, support and supervision. It is typically offered in an apartment setting that is integrated into a community. Staff is available on-site or in a location from which they may be on the site within 15 minutes of being called, 24 hours daily.

***Supported Living Program I (SLP I).*** This model is similar to the Supervised Living Model II; however, individuals generally require only occasional support. It is offered in an apartment setting and staff are available 24 hours a day by phone.

***Community Training Home I (CTH I).*** In the Community Training Home I Model, personalized care, supervision and individualized training are provided, in accordance with a person-centered service plan, to a maximum of two people living in a support provider's home where they essentially become one of the family. Support providers are qualified and trained private citizens.

***Community Training Home II (CTH II).*** The Community Training Home II Model offers the opportunity to live in a homelike environment in the community under the supervision of qualified and trained staff. Care, supervision and skills training are provided according to individualized needs as reflected in the person-centered service plan. No more than four people live in each residence.

***Community Residential Care Facility (CRCF).*** This model, like the Community Training Home II Model, offers the opportunity to live in the community in a homelike environment under the supervision of qualified, trained caregivers. Care, supervision and skills training are provided according to identified needs as reflected in the service plan. Community Choices waiver recipients and HIV/AIDS waiver recipients may live in CRCFs that meet HCBS requirements. These CRCFs may be waiver service providers if they meet additional provider qualifications.

### **Setting Assessment Process**

The setting assessment process was divided into two separate assessment phases. Additionally, SCDHHS will use waiver participant surveys as a third source of data to determine compliance.

**C5 Heightened Scrutiny Assessment.** This assessment was designed to gather initial data to assist SCDHHS in determining if any settings might be subject to the heightened scrutiny process detailed in 42 CFR 441.301(c)(5)(v).

***Development of the assessment tools and criteria.*** The assessment tool questions utilized the criteria directly from 42 CFR 441.301(c)(5). Providers listed the physical addresses of each facility they own/operate and answered a questionnaire to see if they would be subjected to heightened scrutiny. A letter with directions on how to complete the online assessment was mailed to providers.

***Resources to conduct assessments.*** Resources to conduct the assessments will come from SCDHHS personnel and financial resources as well as individual provider personnel and financial resources.

The "C5" (heightened scrutiny) assessment was mailed out the week of Nov. 3, 2014. Providers only completed one assessment to list each facility they own/operate.

***Timeframe to conduct assessments.*** Individual parts of the assessment process have been given an estimated time for completion. These time frames may vary based on personnel and financial resources.

Providers had until Dec. 1, 2014, to complete the “C5” assessment and return it to SCDHHS. That was approximately 26 calendar days.

***Assessment review.*** SCDHHS reviewed the initial data gathered from the “C5” assessments to determine if any facilities may be subject to the heightened scrutiny process. It became apparent during the collection of data and while communicating with the providers that SCDHHS was overly broad in its determination to send assessments to all providers. The following provider types do not have home and community-based settings to assess by the nature of the services provided:

- Early Intensive Behavior Intervention (EIBI) providers,
- Early Interventionists,
- Applied Behavior Analysis (ABA) therapy providers, and
- CRCF providers who do not serve HCBS waiver participants.

The C5 assessment data does not include any of the providers listed above. Facilities that might be subject to heightened scrutiny may have a site visit prior to the completion of the individual facility self-assessment. *Aggregate data results are provided in Outcomes section beginning on page 11.*

***C4 Individual Facilities/Settings Assessment.*** The C4 assessment is designed to evaluate individual facilities to determine compliance with the HCBS criteria outlined in 42 CFR Part 441.301(c)(4).

***Development of the assessment tools and criteria.*** Two assessment tools were developed for individual facilities: one for residential facilities and another for day (non-residential) facilities. The criteria used to create these tools is outlined in the 42 CFR Part 441.301(c)(4). Additionally, SCDHHS used the exploratory questions issued by CMS for the settings requirements. The assessment tools will be used in two ways to measure individual facilities. First, they will be used by providers to complete the self-assessment of individual facilities. Second, SCDHHS or a contracted vendor will use the tools as an independent assessment during site visits. The setting-specific assessments are online tools. For providers who may not have internet access, SCDHHS will provide paper copies.

SCDHHS will pilot test the setting-specific assessment tools to determine reliability and decide if any revisions need to be made prior to distributing to providers. Testing the pilot will be conducted with providers who own or operate home and community-based settings. The testing process will also aid in the development of clear instructions on how to complete the assessment. Pilot began in January 2015; the agency anticipates this will be completed in early March 2015.

***Resources to conduct assessments and site visits.*** Resources to conduct the assessments will come from SCDHHS personnel and financial resources as well as individual provider personnel and financial resources.

SCDHHS anticipates that electronic notification of the individual facility assessment process will be sent to providers in Spring of 2015. Following the notification the agency will send individual letters to providers with instructions on how to conduct the setting-specific

assessments. For providers who may not have internet access, paper copies of the assessment tools will be mailed to them.

Individual letters will be sent to all HCBS residential and non-residential providers with instructions on how to complete that assessment within a 45 calendar day time frame. The deadline will be established based on the letter's approximate day of delivery to providers. All day (non-residential) settings will be assessed. Due to the large number of residential settings and limited SCDHHS resources, each residential provider will conduct a self-assessment of a representative sample of their residential settings, as determined by SCDHHS. It is expected that each HCBS residential provider will conduct a self-assessment on all of their residential settings to determine its level of compliance and establish any steps that may be needed to come into compliance if there are deficiencies.

Individual site visits will occur during that same time as the provider self-assessments. These site visits will be on individual HCBS settings and will be conducted by SCDHHS or a contracted vendor. All day (non-residential) settings will be subject to an independent site visit. Providers of HCBS residential services will only complete self-assessments on a representative sample of their settings as determined by SCDHHS. Any residential setting from a provider may be subject to a site visit. Any setting, residential or non-residential, that self-identified through the C5 assessment as potentially being subject to the heightened scrutiny process will be subject to an independent site visit.

***Timeframe to conduct assessments and site visits.*** Each part of the assessment process has an estimated time for completion. These time frames are based on personnel and financial resources and may vary.

Providers have 45 calendar days to complete and return the self-assessment for the settings they own and/or operate to SCDHHS. The deadline will be established based on the letter's approximated day of delivery to providers.

Independent site visits are anticipated to take approximately 12 months to complete. This time frame will begin once either SCDHHS or a contracted vendor is confirmed as the entity who will conduct the site visits. The site visits may start later than the provider self-assessment time frame.

***Assessment review.*** SCDHHS will individually review all setting-specific assessments to determine if each setting is or is not in compliance. To determine the level of compliance or non-compliance, SCDHHS will use the data collected during both the provider self-assessment and the independent site visit assessment. Providers will receive written feedback from SCDHHS on each setting after the assessments are reviewed. SCDHHS' goal is to complete the assessment review within 12 months from the start of the independent site visits.

***Waiver Participant surveys.*** Waiver participant experience and satisfaction surveys are waiver specific and ask questions directly of the waiver participant/Primary Contact about their experiences with services in the waiver and their satisfaction level with those services.

***Development of the assessment tools and criteria.*** Surveys have been created and conducted by an external contracted entity. The surveys will be reviewed and any supplementary questions may be added as they relate to the standards listed in 42 CFR Part 441.301(c)(4).



**Resources to conduct assessments.** Resources to conduct the surveys will come from SCDHHS personnel and financial resources as well as the contracted vendor's personnel and financial resources.

SCDHHS has contracted with an external entity and they are currently developing and conducting the waiver participant experience and satisfaction surveys.

**Timeframe to conduct assessments.** Each part of the assessment process has an estimated time for completion. These time frames are based on personnel and financial resources and may vary.

The agency anticipates that the waiver participant experience and satisfaction surveys will be completed in 2015 per their contract requirements.

**Assessment review.** SCDHHS will review all relevant data gathered from the waiver participant experience and satisfaction surveys to aid in determining where settings may or may not be in compliance.

## Outcomes

**C5 Heightened Scrutiny Assessment.** Providers completed the "C5" assessment based on their own interpretation of the regulations and materials provided by CMS on the settings that have the effect of isolating individuals. Actual compliance or non-compliance with 42 C.F.R. 441.301(c)(5) will be determined by SCDHHS or CMS.

### C5 Initial Assessment Results

Setting Type	# Settings Assessed	May be Subject to C5 Process
ADHC	43	4
Day Programs (AAC/WAC)	55	9
CLOUD*	7	0
CRCF	43	3
CTH I	98	0
CTH II	619	5
SLP I	88	0
SLP II	74	2
<b>Total #</b>	<b>1027</b>	<b>23</b>

*\*Customized Living Options Uniquely Designed; residential pilot project for individuals with disabilities that may be utilized by waiver participants*

- Provider Response: 67.46%
- Total Providers: 126
- Providers who responded: 85
- Providers who did not respond: 41

**C4 Individual Facilities/Settings Assessment.** As individual facilities are assessed and reviewed, SCDHHS will compile that data to submit to CMS. Upon completion, SCDHHS will be able to show what percentage of facilities, by type, meet the settings criteria and what percentage do not.

**Waiver Participant Surveys.** As each waiver participant experience and satisfaction survey (for specific waivers) is completed, SCDHHS will review the data and determine if any changes are needed in waiver policies or procedures. Additionally, the agency will use the data to assist providers as they develop their action plans for compliance.

### **Actions for Facilities Deemed not in Compliance**

**C5 Heightened Scrutiny Assessment.** Each setting that was self-reported as possibly being subject to the heightened scrutiny process will receive a site visit to determine if SCDHHS will provide more information to the Secretary to show that the setting is home and community-based. Determinations after the site visit include:

- Establish if the setting is actually home and community-based and submit information to the Secretary to prove that the setting does not have institutional qualities.
- Establish if the setting could be home and community-based if the provider makes certain specified changes.
  - If this is determined, providers will have to create an action plan of correction to be approved by SCDHHS.
  - Providers need to be compliant with the home and community-based rule by Mar. 17, 2019 or they will no longer be allowed to provide home and community-based services.
- If the setting is not home and community-based and remedial actions are not sufficient enough to make the setting compliant with the home and community-based regulations.
  - Appropriate action will be taken by SCDHHS to insure continuity of care for any current waiver participants' receiving home and community-based services in this setting.

Site visits will be completed parallel to providers completing their C4 individual facilities/settings assessment. The agency expects these processes to begin the spring of 2015. Once the assessment of the settings is complete, SCDHHS will update the Statewide Transition Plan. Any updates will be based on the outcomes of the providers' site visits and will indicate any need for heightened scrutiny review.

**C4 Individual Facilities/Settings Assessment.** SCDHHS will develop an individualized response for each facility to the self-assessment and site visit. The agency will leverage responses from the self-assessment and site visit to identify gaps in compliance. Providers must create an action plan for their facility and indicate how they will bring it into compliance with the requirements. The action plan must include a timeframe for completion and be submitted to SCDHHS for approval within 30 days of receiving the written notice.

SCDHHS or a contracted vendor will conduct site visits to monitor the progress of those providers who must come into compliance. These visits will occur after a facility's action plan has been approved by SCDHHS, but before the March 2019 compliance deadline.

**Ongoing Compliance**

Compliance will be monitored on an on-going basis per SCDHHS policies. This includes, but is not limited to, provider enrollment and revalidation requirements as well as program area policies, quality assurance standards and indicators, and provider qualification requirements.

## South Carolina Home and Community-Based Services Statewide Transition Plan Timeline

### Section 1. Identification

<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Identify Day Programs	Identify the number of Day programs serving individuals in waivers.	March 2014	April 2014	SCDDSN, SCDHHS	SCDHHS, SCDDSN	Number of facilities to assess identified.
Identify Adult Day Health Care (ADHC) providers	Identify the number of ADHC's serving individuals in waivers.	March 2014	April 2014	SCDDSN, SCDHHS	SCDHHS, SCDDSN	Number of facilities to assess identified.
Identify residential programs	Identify the number and type of residential programs serving individuals in waivers.	March 2014	April 2014	SCDDSN, SCDHHS	SCDHHS, SCDDSN	Number of facilities to assess identified.
Identify other HCB settings	Identify other HCB settings not previously listed.	September 2014	October 2014	SCDHHS	SCDHHS, SCDDSN	Number of facilities to assess identified.
Identify 301 (c)(5) facilities	Obtain physical addresses of all HCBS settings to potentially identify any that might be subject to heightened scrutiny	September 2014	December 2014	SCDHHS, SCDDSN, private providers	SCDHHS, SCDDSN, private providers	Determine any settings that might not comport.
Regulation and policy identification	Identify laws, regulations, policies, standards, and directives that impact HCBS Settings.	September 2014	October 2014	SCDHHS, SCDDSN, SCDHEC, SC Code of Laws, SC Code of Regulations	SCDHHS, SCDDSN, private providers	Gather all sources of regulation in advance of systemic review.

## Section 2. Assessment

<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Review existing laws, regulations, policies, standards, and directives for all HCB settings	Conduct thorough review of existing policies, procedures, qualification standards, licensure regulations, provider training, and other related policies for all HCB settings to determine conformance to HCBS rule using CFR language as the rubric.	October 2014	January 2015	SC Code of Laws, SC Code of Regulations, SCDHHS policies, SCDDSN policies, SCDHEC regulations, SCDHHS provider enrollment	SCDHHS, SCDDSN, SCDHEC	Determine compliance with HCB standards.
Review HCB settings physical locations	Review data gathered on physical locations of all HCB settings to determine if any might be subject to heightened scrutiny per CFR.	December 2014	January 2015	SCDHHS, SCDDSN, private providers	SCDHHS, SCDDSN, private providers	Determine any settings that might not comport.
Develop residential assessment tool	Create an assessment tool for residential providers to evaluate compliance with settings requirements.	June 2014	September 2014	CMS guidance, CFR, state developed assessment tools (Iowa, Kansas, Florida)	SCDHHS, SCDDSN, providers	Assessment tool is developed.
Develop day facility assessment tool	Create an assessment tool for day service providers to evaluate compliance with settings requirements.	July 2014	October 2014	CMS guidance, CFR, State developed assessment tools	SCDHHS, SCDDSN, providers	Assessment tool is developed.

## Section 2. Assessment *continued*

<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Submit assessment tools for review	Both assessment tools will be submitted to CMS and the large stakeholder workgroup for review and feedback	August 2014	October 2014	Draft assessment tools	SCDHHS, SCDDSN, providers, advocacy groups, beneficiaries, families	Incorporate appropriate revisions into tool(s).
Conduct pilot test of assessment tools	Each assessment tool will be sent to a sample of providers to test and determine if revisions are needed. Clear instructions on completion of the tool will be developed from this pilot.	January 2015	February 2015	Draft assessment tools	SCDHHS, SCDDSN, providers	Test assessment tools to ensure accurate data is gathered.
Revise assessment tools and develop instructions	The assessment tools will be revised as needed after the pilot testing. Clear instructions will be developed for completion of the assessment.	March 2015	March 2015	Draft assessment tools	SCDHHS, SCDDSN, providers	Finalize tools for distribution.
Distribute the assessment tools to HCBS providers	Providers will complete the self-assessment tool to determine compliance with HCBS settings requirements.	March/April 2015* <i>*Providers will have 45 days to complete the assessment</i>	April/May 2015	Assessment tool	SCDHHS, SCDDSN providers	Providers complete the assessment.

**Section 2. Assessment *continued***

<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Conduct site visits at provider facilities	SCDHHS or contracted vendor will conduct site visits on individual settings to determine if any corrective action is needed to meet new standards.	April 2015	April 2016	Assessment tools; enrolled providers; HCBS standards	SCDHHS, SCDDSN, providers, advocacy groups, beneficiaries, families	Independent assessment of individual settings is completed.
Review of assessment data	SCDHHS will review the assessment data from providers and the independent site visits to determine which facilities are in compliance and which facilities are not in compliance.	May 2015	May 2016	Assessment results	SCDHHS; SCDDSN, providers	Results identify deficiencies and steps needed to come into compliance are determined.
Create response to providers using the results from the assessment	Providers will be notified of their assessment results and any areas of correction for compliance with HCBS Rule.	May 2015	June 2016	Assessment results	SCDHHS, SCDDSN, providers, advocacy groups, beneficiaries, families	Providers aware of deficiencies regarding compliance with HCBS Rule.



Section 3. Compliance Actions						
Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Intervention/Outcome
Policy revisions	SCDHHS will review and revise policies as necessary to reflect HCBS regulations as well as ongoing monitoring and compliance.	January 2015	December 2015	CMS guidance, CFR, SCDHHS policy manuals	SCDHHS, partner agencies, providers, beneficiaries, families, advocacy groups	Policies reflect HCBS requirements.
Develop action plan for compliance	SCDHHS informs providers to create their own action plan outlining how they will bring their facility(ies) into compliance. It will be submitted to SCDHHS to review and approve.	June 2015* <i>*Providers will have 30 days to develop an action plan</i>	July 2016	Assessment results, information from SCDHHS, CMS guidance	SCDHHS, providers	Each provider develops an approved action plan for compliance.
Provider follow up	SCDHHS will follow up with providers to monitor progress towards compliance and if HCBS requirements are met based on timeframe in their approved action plans.	July 2015	March 2019	Assessment results, provider action plans, CMS guidance, CFR, SCDHHS policies	SCDHHS, providers	Providers come into compliance with HCBS rule.
Provider Training and Education	To ensure understanding of HCBS rule requirements, SCDHHS will develop and provide training/education as needed to providers, to ensure ongoing compliance with requirements.	January 2015	December 2015	CMS guidance, CFR, SCDHHS policies,	SCDHHS, partner agencies, providers	Educate providers on HCBS rule and its requirements.

#### Section 4. Communications

<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Form stakeholder workgroup	Invited various stakeholders to come together to address new HCBS Final Rule and provide input on plans to come into compliance.	Feb. 26, 2014	December 2015	Partner agencies, advocacy groups, providers, beneficiaries, and families	Partner agencies, advocacy groups, providers, beneficiaries, and families	Monthly workgroup meetings; more frequent subgroup meetings.
General public informational meetings	Eight general public informational meetings held around the state to inform beneficiaries, family members, advocates, providers, and other interested parties about the HCBS rule.	Sept. 3, 2014	Oct. 21, 2014	SCDHHS, SCDDSN, Family Connections	SCDHHS, partner agencies, advocacy groups, providers, beneficiaries, and families	Information about the HCBS rule and what it means for waiver recipients and providers shared in advance of Statewide Transition Plan posting.
Tribal Notification	Notice is provided to the Catawba Indian Nation about the Statewide Transition Plan and a conference call is held to discuss.	Oct. 27, 2014	Oct. 29, 2014	Statewide Transition Plan draft	SCDHHS, Catawba Indian Nation	Any questions or concerns about the Statewide Transition Plan are addressed.
Provide Notice to MCAC	Provide notice of the Statewide Transition Plan at MCAC meeting.	Nov. 12, 2014	Nov. 12, 2014	Advisories to MCAC	SCDHHS, SCDDSN, providers, beneficiaries, advocacy groups	MCAC advised of Statewide Transition Plan and when it will be submitted to CMS.

#### Section 4. Communications *continued*

<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Public notice provided	Notice of the Statewide Transition Plan posted to the SCDHHS website, the HCBS/SCDHHS website, sent out via listserv to any interested parties, shared with members of the large stakeholder workgroup, sent out via email to individual providers and advocates.	Nov. 7, 2014	Dec. 12, 2014	Public notice document, Statewide Transition Plan draft document	SCDHHS, SCDDSN, beneficiaries, families, providers, advocacy groups	Public notice posted for Statewide Transition Plan.
Public comment – Statewide Transition Plan	SCDHHS gathered public comments for review through multiple methods and made appropriate changes to the Statewide Transition Plan. Comments were gathered via mail, email, the HCBS website, and in person.	Nov. 7, 2014	Dec. 12, 2014	Public notice document, Statewide Transition Plan draft	SCDHHS, SCDDSN, beneficiaries, families, providers, advocacy groups	Public notice posted for Statewide Transition Plan.
Public meetings conducted on Statewide Transition Plan	Four public meetings were held throughout state for citizens to comment on the Statewide Transition Plan. Also, one webinar was hosted live and a recording was posted online for later viewing until the end of the comment period.	Nov. 13, 2014	Dec. 12, 2014	Public notice document, Statewide Transition Plan draft document	SCDHHS, SCDDSN, beneficiaries, families, providers, advocacy groups	Public notice posted for Statewide Transition Plan; opportunity for public comment provided in person.

<b>Section 4. Communications <i>continued</i></b>						
<b><i>Action Item</i></b>	<b><i>Description</i></b>	<b><i>Start Date</i></b>	<b><i>End Date</i></b>	<b><i>Sources</i></b>	<b><i>Stakeholders</i></b>	<b><i>Intervention/Outcome</i></b>
Public comment collection and revisions	SCDHHS reviewed all comments on the Statewide Transition Plan and made appropriate changes to the document.	Dec. 13, 2014	Jan. 16, 2015	Public comments and any state response documents	SCDHHS	Public comments considered and appropriately incorporated into documents.

## **Appendix A**

### **Summary of the Public Meetings and Comments for the South Carolina Department of Health and Human Services HCBS Statewide Transition Plan**

South Carolina Department of Health and Human Services (SCDHHS) held four public meetings in the following South Carolina cities:

- |                 |                |
|-----------------|----------------|
| • Nov. 13, 2014 | Florence, SC   |
| • Nov. 18, 2014 | Greenville, SC |
| • Dec. 2, 2104  | Charleston, SC |
| • Dec. 4, 2014  | Columbia, SC   |

An online webinar was also held on Nov. 19, 2014. It was recorded and posted online at: [familyconnectionsc.org/webinars.html](http://familyconnectionsc.org/webinars.html). A transcript of the webinar was made available for later viewing during the public comment period.

These meetings provided information about the state's HCBS Statewide Transition plan and created an opportunity for the public to comment on the plan. The public was provided the proposed information prior to the meetings, and the proposed Statewide Transition Plan was posted online for public viewing and comment. The public was also provided the opportunity to submit comments through the mail and/or comment section on the SCDHHS HCBS website.

### **South Carolina Department of Health and Human Services HCBS Statewide Transition Plan**

Per 42 CFR 441.301 (c)(6)(ii)(A), the state is submitting a Statewide Transition Plan to detail how South Carolina will come into compliance with the new home and community-based (HCB) settings requirements.

The following is a summary of the actions identified in the Statewide Transition Plan:

#### **Assessment of System-Wide Regulations, Policies, Procedures, Licensing Standards and Other Regulations**

- A list of regulations, policies, procedures, licensing standards and other regulations that directly impact home and community-based settings will be compiled.
- They will be read and reviewed to determine that the laws, regulations, etc. are not a barrier to the settings standards outlined in the HCBS Rule.
- Changes will be pursued as appropriate for any regulations, policies, etc. that do not meet the HCBS settings requirements outlined in the CFR.

#### **Assessment of Settings**

- Identification of all Home and Community-Based settings.
- Identification of any HCB settings that might be subject to the heightened scrutiny process.
- Distribution of self-assessment tool to providers for completion.
- Review of individual self-assessments; based on the results SCDHHS will provide individualized responses to providers on each setting.



- Site visits of HCBS settings will be conducted by SCDHHS after self-assessments are completed.
- Action Plans will be developed by providers and be approved by SCDHHS to bring settings into compliance with the HCBS rule.

### **Communication and Outreach**

- Provide several methods of communication with the public regarding general information on the HCBS Rule and Statewide Transition Plan.
- Provide public notice and comment on the Statewide Transition Plan (details below).

42 CFR 441.301 (c)(6)(iv)(B) directs the state to submit with the Statewide Transition Plan a summary of the comments received during the public notice period.

### **Summary of comments and clarifications**

#### **1. Systems Policies and Assessments**

##### **Comments/Questions**

- Is there a list of the laws compiled yet that impacts HCBS rules, settings available on the DHHS site?
  - *No, but a summary of the review, which includes the laws and regulations reviewed, will be included in the Statewide Transition Plan. This will be posted on the SCDHHS website and the SCDHHS HCBS website.*
- The transition plan should include a timeline for SCDHHS to develop a comprehensive oversight process to ensure compliance with the Final Rule.
  - *Oversight of compliance will be incorporated into existing oversight structures as these HCB standards will be the “new norm”. That timeline for policy revision is included in the plan.*

#### **2. Facilities and Assessments**

##### **Comments/Questions**

- Provider assessments are coming out in January?
  - *Yes, we still anticipate January. We will post information on the HCBS website and contact providers directly, which is included in the plan.*
- Providers complete the self-assessment and then it takes about 18 months for SCDHHS to review it, is that right?
  - *That is the anticipated time frame for review, including a site visit, which is included in the plan.*
- C4 assessments are for day facilities, right?
  - *The C4 assessment is for all home and community-based settings, day and residential, as specified in the plan.*
- Is the result of the review made public?
  - *We will not publish individual assessment outcomes. It may be provided in aggregate data to CMS indicating how many settings are compliant, how many may become compliant, and how many may not be able to be compliant.*
- What about enforcement by 2019?

- *After March 17, 2019, only providers who are fully compliant with the HCBS rule will be able to provide home and community-based services.*
- In addition to SCDHHS assessments of existing facilities and services, SCDHHS should contract for trained external reviewers who can assess the opportunities for interaction outside the facility or program. While self-assessment is a valuable first step in prioritizing assessments, all programs and facilities should be reviewed by an independent assessor.
  - *We appreciate the commenter's suggestion and will take it under advisement as we move forward through the assessment period.*
- Will adult day health care be included with the HCBS changes?
  - *Yes, they are listed as a setting type in the plan.*
- On page 2 of the Statewide Transition Plan, item A. 2 (b) lists Adult Day Health Centers as serving frail elderly and people with physical disabilities which is not exactly correct. In some communities the adult day health centers are serving people with intellectual disabilities, but who have no physical disability.
  - *The descriptor was meant to define the primary population served, not the only population served.*
- If day programs are not meeting the new standards, will SCDHHS work with them?
  - *Yes, SCDHHS will provide feedback on the self-assessments and the site visit results along with providing guidance on action plan development. This is noted in the plan.*
- In day programs, we want our people out in the community, yes, but some of them require total care and where will these clients fit?
  - *Each individual has a person-centered service plan which reflects their individual needs and goals when it comes to choosing appropriate services.*
- The day programs have a big imbalance. If you want to work in an integrated work setting, you won't be picked up and taken to work. There is transportation to day programs only.
  - *We appreciate this comment and SCDHHS is actively engaging with providers and stakeholders on this issue.*
- Day program availability is an issue. Is there any plan for increasing the capacity in day programs?
  - *We appreciate this comment and SCDHHS is actively engaging with providers and stakeholders on this issue.*
- Is there a Best Practices Guide regarding Day Services that has been developed since it was mentioned that South Carolina is looking at what other states have done?
  - *Currently there is not a guide but information is being collected from other states.*
- Will some service arrays for day services be different or change, like respite?
  - *It is possible that service arrays may change.*
- Several questions were asked regarding the addition of beds/residential facilities for people with intellectual disabilities and with physical disabilities. It is needed; when will it happen?
  - *We appreciate this comment and SCDHHS is actively engaging with providers and stakeholders on this issue.*
- A few questions were asked about some of the group homes that are larger. Given the intent of the CMS regulations, is there a need to reduce or modify them to comply? Are we ensuring qualities of home life is achieved?
  - *The C4 self-assessment will be the best tool to determine the need to change the size of the setting and make accommodations for the current residents if needed.*



- The transition plan should have a timeline to develop smaller scale settings than the four bedroom group home that has been the model for many years.
  - *We appreciate the commenter's suggestion and will take it under advisement as we move forward through the transition period.*
- The transition plan should have a short deadline for development of appropriate language to comply with the requirement for a legally-enforceable tenancy agreement.
  - *We appreciate the commenter's suggestion and will take it under advisement as we move forward through the assessment period.*
- Integration in the community should mean that these individuals have meaningful choice of other housing at the same age as other young adults. The transition plan does not include consideration of this issue.
  - *We appreciate the commenter's suggestion and will take it under advisement as we move forward through the assessment period.*
- The goal of the five year plan was to open beds at regional centers, right? This would mean respite was decreased over time with beds but this will actually increase, right?
  - *There was a goal to expand residential services, but not related to the regional centers.*
- What is the plan to de-bed state run facilities (institutions) across all populations?
  - *That has not been a focus in developing this transition plan.*
- How does the CMS Rule apply to institutional regional services?
  - *It doesn't apply to the institutional population.*

### 3. Person-centered Planning/Conflict-Free Case Management

*Please note that while the Statewide Transition Plan only focuses on HCB settings, policies, and public notice, the State received several comments on this topic and wanted to include them here.*

#### Comments/Questions

- How are we determining that Freedom of Choice is provided and understood?
  - *This will most likely be addressed through proper training for case managers and education for beneficiaries and families.*
- Most importantly, Person Centered Planning should be the basis of all plans. Supported Decision Making needs to be at the heart of this as well.
- I know much of the emphasis is on environmental issues pertaining to the physical layout of programs. I know the idea of smaller group settings is something to strive for, but the financial resources to do some of the necessary changes may be huge and difficult to achieve. I would suggest that a key focus needs to be on the issue of choice and promoting individualized services. Even in larger group settings choice and individualized services can be achieved. I don't want to see us (providers) using environmental factors as an excuse for not promoting the person centered services. Please make sure that you strengthen the notion of choice and individualized services in your plan.
  - *We agree with the emphasis on choice for beneficiaries and will make sure to address it as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.*
- The transition plan should include development of protocols for the person-centered plan and criteria for individuals who provide the assessments used in developing the plan. It should include a timeline for training participants and providers about the goals of the Final Rule and the person-centered planning process.

- *The guidelines regarding the waiver transition plans indicate that they must only address the HCBS rule settings requirements and how those will be assessed and brought into compliance. We do appreciate the commenter's suggestion and will take it under advisement as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.*
- As part of the transition plan to improve meaningful choice for participants, P&A suggests review of the National Core Indicators Data on choice of home and work.
  - *This review will be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule.*
- The transition plan should include a process to clarify the appeals process for applicants and recipients of SCDDSN services and members of HMOs. SCDHHS should amend its fair hearing regulation to clarify what it covers and provide an adequate cadre of professional hearing officers to ensure thorough, fair and expeditious review of all decisions affecting Medicaid recipients.
  - *Review of all processes related to HCB services will be part of the system assessment of policies as addressed in the plan.*
- How much influence/impact will families have in this new Person-centered planning world if the beneficiary wants something else?
  - *The case manager acts as a mediator to resolve disputes in those instances.*
- Please explain conflict free case management.
  - *To separate service coordination from the same entity that provides services to promote and ensure freedom of choice for the beneficiary.*
- For conflict-free case management, what does the transition plan look like? Do individual providers or the state have to deal?
  - *Yes, it will be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule.*
- Are we looking at other service arenas where conflict free case management already exists?
  - *Yes.*
- Do you have a vision for Conflict Free Case Management?
  - *It is being developed. There will be a sub-group created to review what we do now and what other states are doing, and to develop some potential models.*
- Will case manager positions be cut?
  - *It is unclear at this time, but SCDHHS' ultimate goal is to provide conflict free case management in compliance with the HCBS standards.*

#### 4. Other comments

##### **Comments/Questions**

- What does this mean to families? Will services change? Will they lose their waiver?
  - *Services should only change to be compliant with the new standards, which seek to improve services. No one should lose their waiver; this is not the intent.*
- How will this affect other waiver services?
  - *Any providers of waiver services will have to comply with the new standards by March 17, 2019.*
- Will these changes hold up the people getting the services?
  - *No, SCDHHS does not anticipate any disruption in services to beneficiaries.*

- Is there something or somewhere I can comment here on this web site?
  - *Yes, online comments can be made at: <https://msp.scdhhs.gov/hcbs/webform/comments-questions>.*
- What do you want from those attending the public meeting and those in the DSN community? What do you need in terms of the Final Rule?
  - *We need ideas from the community and we need everyone to be open to new ideas that are coming as a result of the HCBS requirements. Implementing these new standards will require input from community and flexibility in changes to services. We would like everyone to stay connected to the process and assessments as they happen.*
- What are we doing with the community and how they treat people with disabilities?
  - *This will be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule and working with advocates and partner agencies.*
- What about the safety factor for the disabled being integrated into the community?
  - *Safety is part of the service plan and specific to the individual and would be part of the person-centered planning process.*
- Is there a time frame for potential changes to the service area?
  - *For the HCBS Rule, the deadline is by March 2019.*
- Would 1915(i) help increase capacity?
  - *It may once it is available.*
- What happens to DSN Boards and their roles?
  - *DSN Boards will continue to provide services as they transition to compliance with the new standards.*
- How is the CMS Rule going to help get more providers, especially in places where there are not a lot of options currently?
  - *That is unclear. We must make this field more attractive and get more quality providers trained.*
- Does the plan for self-assessment that is going out in January mention anything about increases in the cost of care due to criteria?
  - *It doesn't address that specific question.*
- If there is an increased expectation of services, there may be an increase in the cost of providing the service.
  - *Yes, the self-assessments will be important to help us determine the potential financial impact.*
- What is the additional burden and impact on providers?
  - *We want beneficiaries' needs met and services and settings brought up to standard. All providers will self-assess which may help better determine the burden and/or impact to providers.*
- Are there currently programs, supports and/or dollars to hire and encourage businesses to hire individuals with disabilities?
  - *There are some federal incentives for businesses where a certain percentage of employees have disabilities. SC Vocational Rehabilitation Department also deals directly in this area.*
- What about employment issues? Small towns don't employ people with disabilities.
  - *We appreciate this comment and SCDHHS is actively engaging stakeholders on this issue.*
- Are there states where Vocational Rehabilitation offers incentives and/or contributes to help in finding employment?

- *SCDHHS is meeting with SC Vocational Rehabilitation to determine how both agencies can work together on this issue.*
- Jobs in the community may pay less than what people make in the day center. Will people be forced to give up their center job?
  - *No, it is about personal choice.*
- SCDHHS should increase coordination with the Vocational Rehabilitation Department to increase training and employment opportunities outside the DSN Board framework. SCDHHS should work with the Governor's office to implement the National Governors' Association employment initiative.
  - *This work may be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule.*
- We moved here from Pennsylvania. There, working with our OVR was important. They could get job supports through a waiver with DSN. Transportation is an issue. Here public transportation is slim. How do we address these issues?
  - *Transportation in this state is an issue. SCDHHS is actively engaging providers and stakeholders on this issue.*
- Protection and Advocacy (P & A) strongly supports this initiative and the expanded inclusiveness of individuals with disabilities. However, they would like to see external assessments of the facilities in addition to the self-assessments. Also, they support meaningful choices for individuals once school is completed. They would like to involve others besides SCDDSN and SCDHHS to help move in right direction. Vocational Rehab was mentioned as one agency to help better support these endeavors. They would like to see continued oversight to insure best practices and noted that abuse and neglect was easier to spot when individuals were institutionalized. It is harder to spot when individuals are spread out in homes, etc. This needs to be monitored closely. P & A appreciates SCDHHS moving South Carolina forward in these areas.
- The transition plan should include a strategy to gather information about the availability of community programs which could be modified to include waiver participants.
  - *We appreciate the commenter's suggestion and will take it under advisement as we move forward through the assessment period.*
- The transition plan should address the need for SCDHHS to work with SCDHEC and other members of the Adult Protection Coordinating Council to assess the need for changes in the system for investigating abuse/neglect/exploitation of vulnerable adults. Data from SLED show that many cases occur in CTH IIs. As individuals move into smaller facilities there will be a need to determine the best way to protect them. P&A believes that procedures to protect individuals in the community are an essential part of person-centered planning and SCDHHS quality control. The transition plan should also consider development of an adult abuse registry as a means of protecting waiver participants.
  - *Review of all processes related to HCB services will be part of the system assessment of policies.*
- There were comments on how SCDHHS needs to look at how we can share resources between agencies.

## **5. Response**

The guidelines regarding the Statewide Transition Plan indicate that it must only address the HCBS rule settings requirements and how those will be assessed and brought into compliance. Many individual responses have been provided above that note what was included as part of the Statewide Transition Plan. Other comments will be taken under advisement as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.