

State of Rhode Island & Providence Plantations



**TRANSITION PLAN TO IMPLEMENT THE SETTINGS REQUIREMENT
FOR HOME AND COMMUNITY BASED SERVICES
CMS FINAL RULE OF JANUARY 2014**



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Summary:

In January 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule regarding Medicaid-funded home and community based services (HCBS). The rule applied to HCBS provided under 1915(c) authorities. Rhode Island’s authority to claim Federal Medicaid match for HCBS is under our 1115 Waiver.

The intent of the rule is to ensure that Medicaid-funded HCBS are provided to individuals in a setting that is integrated and supports full access to the community; are selected by the beneficiary; ensure an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint; optimize autonomy and independence in making life choices; facilitate individual choice regarding services and supports, and who provides them; and are based on a person centered service plan.

Components addressed in this Transition Plan:

Rhode Island’s Transition Plan will encompass the following:

- 1) A description of the State’s process for compliance with Medicaid-funded HCBS rules.
- 2) A description of areas of vulnerability with remedial actions that ensures compliance with full implementation by March, 2019.
- 3) Two statements of public notices and request for public input.

Materials included in the Transition Planning Document:

Background 1115 Waiver

State Team Responsibilities

Vision for Training and Compliance

Existing Settings in HCBS Programs and Assessment Tool Review Process

Rhode Island’s Statewide Transition Plan Matrix –Areas of Vulnerability and Remedial Actions

Statements of Public Notice

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List of Providers

Provider Self-Assessment Tools for Residential and Non-Residential Settings

Background-1115 Waiver



All of Rhode Island’s Medicaid-funded HCBS are authorized under an 1115 Waiver. The state’s Waiver application was approved by CMS for five (5) years, from December 23, 2013 through December 31, 2018.

Medicaid-funded HCBS authorized in the 1115 Waiver are provided to the following populations when they meet both clinical and financial eligibility requirements:

- Aged, blind and disabled individuals
- Individuals at risk for LTC with income at or below 250 percent of the FPL, who are in need of home and community-based services
- 217 like Categorically Needy Individuals receiving HCBS waiver-like services & PACE-like participants in the Highest need group
- 217 like Categorically Needy Individuals receiving HCBS waiver-like participants in the High Need group
- 217 like Medically Needy receiving HCBS waiver-like services in the community (High and Highest group). Medically Needy PACE-like participants in the community.
- Adults living with disabilities with incomes at or below 300 percent of the SSI with income and resource lists above the Medicaid limits
- Adults aged 19-64 who have been diagnosed with Alzheimer’s disease or a related Dementia as determined by a physician, who are at risk for LTC admission, who are in need of home and community care services, and whose income is at or below 250 percent of the FPL

The Settings that will be reviewed for programs and facilities are the following:

- 1) Residential Settings
- 2) Shared Living Setting
- 3) Day/Employment Programs
- 4) Assisted Living Sites
- 5) Adult Day Programs

A statistically valid sample will be done for all settings. After July1, 2015 on-site evaluations and consumer surveys will be used to complete the assessment process.

A list of Core Services of the 1115 Waiver is defined in Attachment A (p. 37-42).

State Team Responsibilities:

The State Team consists of the Executive Office of Health and Human Services (EOHHS) and the Departments that are under the EOHHS umbrella: the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals; the Department of Health, the Department of Children, Youth and Families; and the Department of Human Services; Division of Elderly Affairs; as well as provider and advocacy groups such as, Advocates in Action (AIA); Community Provider Network of Rhode Island (CPNRI), Rhode Island Developmental Disabilities Council; LeadingAge Rhode Island; and The Paul V. Sherlock Center on Disabilities.



Consumers and advocacy groups will provide input, review and be involved in the development and implementation of the transition plan. In order to strengthen the transition plan, and assure the consumer voice is represented, additional meetings will occur with consumer and advocacy groups.

The State team responsibilities will be on-going over the next four (4) years and there will be a clear understanding of the work plan and timelines needed for full implementation. Continued stakeholder engagement to review the findings will be critical to fully complying with the Final Rule by March 2019.

These engagement meetings will serve as a process for educating the public about the new rules as well as an opportunity for feedback. Until the Final Rule is fully implemented, the Transition Plan will be an open document/process that works with all stakeholders to achieve gradual implementation.

Vision for Training and Compliance:

In order to ensure that Rhode Island has the capacity to implement the Transition Plan, the State team will be developing an inter-departmental training, technical assistance and compliance team.

As the State team identifies vulnerabilities within the State agencies and service providers, a team of state led trainers and technical assistance staff will be available to assist agencies.

Depending on the need of each agency, more intensive technical assistance may be offered by the State team to bring programs, policies and practices into compliance; therefore, the training team will incorporate extensive technical support to providers.

Finally, the State team will utilize its compliance resources to lead an inter-departmental team to monitor agencies' compliance. Monitoring may be supplemented by interns from state universities and colleges programs. State educational institutions have areas of study that focus on human services, including Developmental Disabilities, Elder Care, Nursing and Social Work. The State feels that utilizing our colleges and universities will benefit the state as well as the students by providing a practical field experience.

Existing Settings in HCBS Programs and Assessment Tool Review Process:

Rhode Island is implementing a three pronged approach to the assessment process. A provider self-assessment tool was developed using the CMS settings requirements compliance toolkit to initiate the process.

Consumers, caregivers, providers, and all other stakeholders will have input into the review process and identify areas that need to be strengthened for full compliance by March 2019.

The process is as follows:

1. The current Rhode Island standards, rules, regulations, statutes and other requirements for HCBS settings will be reviewed for compliance with federal regulations by the State team and key stakeholders.
2. Provider self-assessments will be used to identify areas of vulnerability.
3. Assessments will be done over the next twelve months and will include consumer surveys and on-site assessments to complete the process. Consumer and advocacy groups will drive the discussion and process on the administration of the consumer surveys. The on-site assessments will be completed by the State team when it is determined that the "paper survey process" did not provide a complete or



accurate assessment of compliance. The State will use the consumer survey and the provider self-assessment information and go to the setting to further assess for compliance.

This assessment process will allow the State to begin to target technical assistance to providers who have been identified or have self-identified as in need of compliance assistance. As the State provides technical assistance and agencies move toward the work of their individual agency's transition plan, the team of assessors will track progress towards compliance with the Final Rule.

See Provider Self-Assessment Tools for Residential and Non-Residential Settings (p.26-36)

Rhode Island's Statewide Transition Plan Matrix:

The following table describes The Executive Office of Health and Human Services comprehensive transition plan. The state's Transition Plan includes the following elements:

- Stakeholder review of Assessment Tool and Transition Plan
- Public outreach and engagement with information about implementation of the Assessment Process and the Transition Plan
- Public comment process for the Transition Plan
- Implementing changes in statutes, regulations, and policies
- Implementing assessment process (on-site, self –assessments, consumer surveys)
- Identify settings that require compliance strategies and monitoring of compliance to the new rule



Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
	1. Stakeholder review of Assessment Tool and Transition Plan through inclusion and participation of stakeholders, consumers and providers during the development of the tool and the transition plan	January 26 ,2015	No later than June 30, 2015	Comments and responses from state team meetings, Comments and responses from EOHHS Monthly Task Force meeting, EOHHS website,	EOHHS, BHDDH, DOH, CPNRI, DCYF, DHS/DEA, ICI CAC, Sherlock Center, LeadingAge RI, Advocates in Action, RI Developmental Disability Council, Long Term Care Coordinating Council ¹	Acceptance of Transition Plan and Assessment Tool June 30, 2015	Assessment tool completed March 9, 2015
1115	<p>List all steps and actions to assure progress towards deliverable:</p> <p>1) On-going meetings to review and approve Assessment Tool Process and Transition Plan.</p> <p>2) Each state department will identify provider network and advocacy groups that are to be involved in the Assessment Tool Process and Transition Plan.</p> <p>3) Post Assessment Tools, and Transition Plan on EOHHS HCBS web site by April 15, 2015</p> <p>4) Report at each monthly EOHHS Task Force.</p> <p>5) On-going communication to consumers, providers, stakeholders through posting and comments of tool and transition plan on web-site and meetings with stakeholders, providers and consumers during development.</p> <p>6) Solicit public comments and incorporate feedback no later than May 30, 2015.</p>						Completed
1115	2. Public outreach and engagement with information about the implementation of the Assessment Process and tracking and remediation of the Transition Plan	April 30, 2015	June 30, 2016	Comments and responses from EOHHS Monthly Task Force meeting, EOHHS website, E-mail and non-electronic mail or distribution at Stakeholder meeting	EOHHS, BHDDH, DOH, CPNRI, DCYF, DHS/DEA, ICI CAC, Sherlock Center, LeadingAge RI, Advocates in Action, RI Developmental Disability Council, Long Term Care Coordinating Council	Communication to all relevant stakeholder on Transition Plan, Assessment Process and updates to Transition plan over the next 18-24 months	In process

¹ “EOHHS” is the Rhode Island Executive Office of Health & Human Services; “BHDDH” is the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals; “DOH” is the Rhode Island Department of Health; “CPNRI” is the Community Provider Network of Rhode Island; “DCYF” is the Rhode Island Department of Children Youth and Families; “DHS/DEA” is the Rhode Island Department of Human Services, Department of Elderly Affairs; “ICI CAC” is the Rhode Island Integrated Care Initiative Consumer Advisory Committee.



Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
	<p>List all steps and actions to assure progress towards deliverable:</p> <ol style="list-style-type: none"> 1) On-going state team meetings to review and disseminate all information to relevant stakeholders to regarding updates and changes in the transition plan. First change to plan will occur after public comment process. All changes to the Transition Plan will be submitted to CMS prior to June 30,2015 2) Subsequent to the June 30 2015 submission, plan remediation and supervision will be done through monthly state team meetings. The goal is to have a full plan for remediation 12 months after submission of the plan. 3) Each state department will identify the provider networks and advocacy groups to be involved in Transition Plan implementation and remediation. 4) Post information changes on the EOHHS HCBS web site. 5) Report at each monthly EOHHS Task Force. 6) E-mail correspondence to EOHHS task force. 7) Distribute electronic and non-electronic communications as needed. 						In process
1115	3. Public comment process for the Transition Plan	January 26, 2015	June 1, 2015	Comments and responses to EOHHS Monthly Task Force meeting, EOHHS website, E-mail and non-electronic mail or distribution at Stakeholder meeting	EOHHS, BHDDH, DOH, CPNRI, DCYF, DHS/DEA, ICI CAC, Sherlock Center, LeadingAge RI, Advocates in Action, RI Developmental Disability Council, Long Term Care Coordinating Council	All stakeholders provided two opportunities to comment on Transition Plan prior to submission	Completed
	<p>List all steps and actions to assure progress towards deliverable:</p> <ol style="list-style-type: none"> 1) Post on EOHHS HCBS web site; send out electronic and non-electronic communications by April 15, 2015. 2) Record comments and make necessary changes to the Transition Plan. 3) Provide two opportunities for public comment after April 15, 2015. First Public input occurred at public forums on April 30, 2015 and May 5, 2015. Second opportunity was via website and non-electronically through correspondence with the State. (See Section E Statement of Public Notice). 						



Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
	4) After submission of Transition Plan, the public process will continue. Stakeholders will be invited to comment upon any changes to the plan.						
	4. Plan for changing statutes, regulations, and policies	February 1, 2015	January 1, 2016	Reviews of statutes, regulations and policies.	State team, providers, advocacy groups and identified key stakeholders to review statutes, regulations and policies with providers	All statutes, regulations and policies in compliance by March 2019	In Process
1115	<p>List all steps and actions to assure progress towards deliverable:</p> <p>1) State team analyzes all completed assessments and meets with providers to review possible changes to statutes, regulations and policies.</p> <p>2) State team identifies and prioritizes any changes to statutes, regulations, and policies -six months after submission of the Transition Plan.</p> <p>3) State team will revise policies, procedures and standards to address ongoing compliance and monitoring, to be completed by January 1, 2016. State team works to identify and prioritize any changes to statutes, regulations and policies six months after the submission of the Transition Plan. These updates may require legislative updates that are to be completed by January 2019.</p> <p>4) Update state rules to reflect statutes, regulations, and policy changes, by January 2019.</p> <p>5) As part of the provider enrollment process, all new providers will be required to meet the new HCBS setting rule at the time of enrolling to be a Medicaid provider.</p>						
	5. Implementing assessment process (on-site, self -assessments, consumer surveys)	February 1, 2015	June 30, 2016	State team	State team, providers, consumer advocacy groups and identified key stakeholders to be part of the assessment process	Implement three prong assessment process by June 2016	In process
1115	<p>List all steps and actions to assure progress towards deliverable:</p> <p>1) Design statewide on-going remediation strategy after completion of the 12 month assessment process. The state team will design a remedial strategy for settings to be found noncompliant with the Final Rule. The strategy will include on-site assessments, technical assistance and consultation and consumer surveys.</p>						



Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
	<p>2) The State team will integrate consumer surveys starting February 1, 2016.</p> <p>3) As part of the on-going remediation strategy, a list of all settings that are assumed to be in compliance and out of compliance with the Final Rule will be made and tracked by the State team.</p> <p>4) State Team reviews all assessments to provide technical assistance and compliance towards the Final Rule. Follow up includes on-site assessments to validate sample settings. Completion date of the assessment process is June 30, 2016.</p>						
	<p>6. Identify settings that require compliance strategies and monitoring of compliance to the new rule</p>	<p>February 1, 2015</p>	<p>September 30, 2018</p>	<p>Reviews all completed assessments, surveys, action plans and surveys sent to state team</p>	<p>State team to provide Technical Assistance and work in collaboration with providers, advocacy groups and key stakeholders in this process</p>	<p>All setting in compliance by March 2019</p>	<p>In process</p>
<p>1115</p>	<p>List all steps and actions to assure progress towards deliverable:</p> <ol style="list-style-type: none"> 1) Design statewide on-going remediation strategy after the completion of the 12 month assessment process. The state team will design a remedial strategy for settings to be found noncompliant with the Final Rule. The strategy will include on-site assessments, technical assistance and consultation and consumer surveys. 2) The State team will integrate consumer surveys starting February 1, 2016. 3) As part of the remediation strategy, a list of all settings that are assumed to be in compliance and out of compliance with the Final Rule will be made. 4) After 12 month of completed assessments, state team to prioritize and identify those settings that require immediate assistance. Priority will be given to those settings that would require new setting/placements for individuals. 5) The State Team will work with all individual non-compliant settings to develop and implement action plans. Periodic updates to the state team on progress to assure compliance by September 30, 2018. Any setting that remains out of compliance, the state will work with individuals in the residential setting to transition to a new setting that is integrated and choice base by March 2019. 6) As part of the provider enrollment process, all new providers will be required to meet the new HCBS setting rule at the time of enrolling to be a Medicaid provider. 						



Preliminary Areas of Vulnerability and Remedial Actions:

The State team initiated the provider self-assessment tool by sampling 10% of all of the following settings. This was done to provide feedback on the use of the tool and to provide the State and stakeholders with a preliminary overview of the settings. Over the next twelve (12) months the State team will complete the assessment process and provide a statistically valid sample to achieve full remediation and compliance with the Final Rule by March 2019.

1. Residential/Shared Living Provider Setting:

Provider self-assessments were sent in from nineteen (19) residential settings and three (3) shared living providers. The settings were reported to provide and comply with the following for their residents:

- 1) Opportunity to engage in community life
- 2) Ensure freedom from coercion and restraint
- 3) Provide a setting that ensures dignity and respect
- 4) The person or the person chosen by the individual has an active role in the development and update of the individual's person-centered plan
- 5) Optimizes interaction, autonomy and independence in making life choices
- 6) Provides opportunity for privacy
- 7) Freedom to furnish their sleeping units
- 8) Has control over their schedules
- 9) Able to have visitors at any time
- 10) Has access to food at any time
- 11) Setting is physically accessible to the individual
- 12) No setting was reported to be in a public or privately-owned facility that provides inpatient treatment and/or on the grounds of, or immediately adjacent to a publicly-funded healthcare institution.

Follow up assessments will be done to validate all provider self-assessment by June 2016.

The areas of vulnerability most noted in our survey were specific to certain choice issues that can be influenced by the overall management needs of an entire group living in a setting.

Specific areas of vulnerability were the following:



- 1) Individuals scheduling his /her days services and or arrival and departure times
- 2) Access to public transportation
- 3) Opportunities to control personal resources
- 4) Choice regarding available options regarding where to live/receive services
- 5) Choice regarding the provider or staff who render the services they receive
- 6) Choice of roommates
- 7) Lockable entrance doors with individuals and staff having keys as needed to the bedroom and bathroom.

In order to achieve a full remediation plan, Rhode Island proposes the following:

- 1) Design statewide on-going remediation strategy after the completion of the 12 month assessment process. The state team with providers, advocacy groups and identified key stakeholders, will design a remedial strategy for settings to be found noncompliant. The strategy will include on-site assessments, technical assistance and consultation and consumer surveys. After the assessment process is complete, the State team will review the data and identify those settings with compliance issues to the Final Rule. Providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy.
- 2) The State team will integrate consumer surveys starting February 1, 2016.
- 3) As part of the on-going remediation strategy, a list of all settings that are assumed to be in compliance and out of compliance with the Final Rule will be made.
- 4) State team with providers, advocacy groups and identified key stakeholders, will develop, adopt and revise policies, procedures and standards to address ongoing compliance and monitoring, to be completed by 1/1/2016. State team works to identify and prioritize any changes to statutes, regulations and policies six months after the submission of the Transition Plan. These updates may require legislative updates that are to be completed by January 2019.
- 5) The State team will work with all non-compliant settings to develop and implement action plans. Periodic updates to the state team on progress to assure compliance by September 30, 2018. Any setting that remains out of compliance, the state will work with individuals in the residential setting to transition to a new setting that is integrated and choice based by March 2019.
- 6) Implement the rule making process s to change statutes, regulations and policies, which include public comment, until full implementation by March 2019.
- 7) All new providers will be assessed with revised policies, procedures and standards to ensure HCBS setting compliance to providing services.



Another area of vulnerability that has been identified is that of the legally enforceable agreement that is comparable to a lease. Many of Rhode Island's providers have identified this as an area of concern. For example, Shared Living Arrangements (SLA) have traditionally utilized a home-based approach that provides for self-determination and choice, but does not have agreements that are legally enforceable to that of a lease.

In order to achieve a full remediation plan, Rhode Island proposes the following:

- 1) State team will collect and review any signed agreements within six months after submission of the Transition plan or by January 1, 2016.
- 2) Design statewide on-going remediation strategy after completion of the review process of any state signed agreements
- 3) The State team will work with all individual non-compliant settings to develop and implement action plans. Periodic updates to the state team on progress to assure compliance by September 30, 2018. Any setting that remains out of compliance, the state will work with individuals in the shared living setting to transition to a new setting by March 2019.
- 4) As part of the provider enrollment process, all new providers will be required to meet the new HCBS setting rule at the time of enrolling to be a Medicaid provider.

2. Day/Employment Programs:

The intent of the Final Rule is to ensure that Medicaid-funded HCBS are provided to individuals in a setting that is integrated and supports full access to the community. The U.S. Department of Justice has also forcibly asserted that integration is to be in all aspects of the consumer's life, to include areas such as employment and day program settings. Rhode Island is presently under a Department of Justice consent decree working towards transitioning individuals from center-based services to community based integrated employment and day services. Therefore our remedial actions will include the following:

- 1) Review of the current plan of correction by the Department of Justice and work closely with the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH), to design a remedial strategy that is consistent with consent decree by June 30, 2016.
- 2) Follow milestones and timetables with the consent decree to assure compliance with the Final Rule of services and employment in an integrated community setting.
- 3) The State Team will work with all individuals in non-compliant settings to develop and implement action plans consistent with consent decree by March 2019.
- 4) As part of the remedial design, consumers will be given the opportunity to have an active role in choosing the support and services needed to transition from center-based services to community based integrated employment and day services.



- 5) April 2015, a survey will be initiated by the Paul V. Sherlock Center on Disabilities. The survey will focus on Employment and Day Programs and focus on obtaining data on integrated paid employment, facility based paid work, community based non-work activities and facility based non-work activities. This survey will be integrated into the remedial design strategy for June 30, 2016.

In addition, a total of five (5) Day Program/Employment settings were sampled with our Provide Self-Assessment Tool. All eleven questions from our tool were reported to have compliance except for the area of integrated employment settings. As mentioned above, this area will be addressed by a remedial design that works closely with BHDDH and incorporates the survey of the Paul V. Sherlock Center to move this issue forward.

Follow up will be done by the State team to validate all provider self-assessments by June 2016.

3. Assisted Living Sites:

Provider self-assessments were sent in by nine (9) assisted living sites. The settings were reported to provide and comply with the following for their residents:

- 1) Opportunities to engage in community life
- 2) Ensure freedom from coercion and restraint
- 3) Provide a setting that ensures dignity and respect
- 4) The person or the person chosen by the individual has an active role in the development and update of the individual's person-centered plan
- 5) Optimizes interaction, autonomy and independence in making life choices
- 6) Provide opportunity for privacy
- 7) Freedom to furnish their sleeping units
- 8) Freedom to furnish their sleeping units
- 9) Has control over their schedules
- 10) Able to have visitors at any time
- 11) Has a legally enforceable agreement comparable to a lease

Follow up will be done by the State team to validate all provider self-assessments by June 2016.

The areas of vulnerability most noted in our survey were specific to certain choice issues that can be influenced by the overall management needs of an entire group living in a setting.



Specific areas of vulnerability were the following:

- 1) One facility is on the grounds of a nursing facility, therefore will be reviewed for Heightened Scrutiny
- 2) Opportunities to control personal resources
- 3) No locks on bathroom doors
- 4) Physically accessible to kitchen and laundry areas
- 5) Allowing access to food at any time

In order to achieve full remediation, Rhode Island proposes the following:

- 1) Design statewide on-going remediation strategy after the completion of the 12 month assessment process. The State team with providers, advocacy groups and identified key stakeholders, will design a remedial strategy for settings to be found noncompliant. The strategy will include on-site assessments, technical assistance and consultation and consumer surveys. After the assessment process is complete, the State team will review the data and identify those settings with compliance issues to the Final Rule. Providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy.
- 2) The State team will integrate consumer surveys starting February 1, 2016
- 3) As part of the on-going remediation strategy, a list of all settings that are assumed to be in compliance and out of compliance with the Final Rule will be made.
- 4) State team with providers, advocacy groups and identified key stakeholders will develop, adopt and revise policies, procedures and standards to address ongoing compliance and monitoring, to be completed by January 1, 2016. State team works to identify and prioritize any changes to statutes, regulations and policies six months after the submission of the Transition Plan. These updates may require legislative updates that are to be completed by January 2019.
- 5) The State team will work with all individual non-compliant settings to develop and implement action plans. Periodic updates to the state team on progress to assure compliance by September 30, 2018. Any setting that remains out of compliance, the state will work with individuals in the residential setting to transition to a new setting that is integrated and choice based by March 2019.
- 6) Implement the rule making process and process to change statutes, regulations and policies, which include public comment process, until full implementation by March 2019.
- 7) As part of the provider enrollment process, all new providers will be required to meet the new HCBS setting rule at the time of enrolling to be a Medicaid provider. Coordination between the Executive Office of Health and Human Services, the Department of Health and any other



relevant entity, are to ensure that new providers are made aware of HCBS Final Rule prior to enrollment.

Heightened Scrutiny:

The State will review the facility (and any other facilities) for Heightened Scrutiny and follow the process outlined by CMS. The State will begin that process after submission of the Transition Plan and works toward resolving the issue after completion of the assessment process June 30, 2016.

4. Adult Day Programs:

Provider self-assessments were sent in from six (6) adult day programs. The settings were reported to provide and comply with the following:

- 1) No setting was reported to be in a public or privately-owned facility that provides inpatient treatment and or on the grounds of, or immediately adjacent to a publicly funded healthcare institution.
- 2) Opportunities to control personal resources
- 3) Ensure freedom from coercion and restraint
- 4) Provide a setting that ensures dignity and respect
- 5) The person or the person chosen by the individual has an active role in the development and update of the individual's person-centered plan.
- 6) Optimizes interaction, autonomy and independence in making life choices
- 7) Health information is kept private
- 8) Plans include a description of the condition that is directly proportional to the assessed need, data to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm.

Specific areas of vulnerability were the following:

- 1) Opportunities to engage in Community Life
- 2) Options for services
- 3) Physical Accessibility in regards to locked doors

In order to achieve full remediation, Rhode Island proposes the following:

- 1) Design statewide on-going remediation strategy after completion of the 12 month assessment process. The state team with providers, advocacy groups and identified key



stakeholders, will design a remedial strategy for settings to be found noncompliant. The strategy will include on-site assessments, technical assistance and consultation and consumer surveys. After the assessment process is complete, the State team will review the data and identify those settings with compliance issues to the Final Rule. Providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy.

- 2) The State team will integrate consumer surveys starting February 1, 2016.
- 3) As part of the on-going remediation strategy, a list of all settings that are assumed to be in compliance and out of compliance with the Final Rule will be made.
- 4) State team with providers, advocacy groups and identified key stakeholders, will develop, adopt and revise policies, procedures and standards to address ongoing compliance and monitoring, to be completed by January 1, 2016. State team works to identify and prioritize any changes to statutes, regulations and policies six months after the submission of the Transition Plan. These updates may require legislative updates that are to be completed by January 2019.
- 5) The State Team will work with all individual non-compliant settings to develop and implement corrective plan actions. Periodic updates to the state team on progress to assure compliance by September 30, 2018. Any setting that remains out of compliance, the state will work with individuals in the setting to transition to a new setting that is integrated and choice based by March 2019.
- 6) Implement the rule making process and process to change statutes, regulations and policies, which include public comment process, until full implementation by March 2019.
- 7) As part of the provider enrollment process, all new providers will be required to meet the new HCBS setting rule at the time of enrolling to be a Medicaid provider. Coordination between the Executive Office of Health and Human Services, the Department of Health and any other relevant entity, are to ensure that new providers are made aware of HCBS Final Rule prior to enrollment.

Statements of Public Notice:

EOHHS hosted two public meetings on Thursday, April 30, 2015 and Tuesday, May 5, 2015 for comment on the transition plan. At these meetings attendees received a copy of the Transition Plan. Prior to the meetings, the following Public Notice was advertised statewide in the *Providence Journal* on April 15, 2015. This notice enabled the public to comment electronically and non-electronically to the transition plan until May 30, 2015.

Public notice was also made available through EOHHS Website (www.eohhs.ri.gov) and notification to the EOHHS task force on April 15, 2015. Public comment was available until May 30, 2015. Additionally, on April 14, 2015, the public was noticed via e-mail (i.e., the EOHHS' "interested parties" list, comprised of 389 colleagues and community members who have self-identified as interested in EOHHS matters). This notice contained the date, time, and place of both public meetings.



Finally, public notice of the May 5, 2015 public hearing was posted on the Rhode Island Secretary of State’s website (www.sos.ri.gov) on April 30, 2015 in accordance with the requirements of the State’s Open Meetings Act (Chapter 42-46 of the Rhode Island General Laws, as amended).

Below is the notification that was placed in the Providence Journal on **April 15, 2015**.

Official transcripts of both public meetings can be seen in Attachment B.



STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

NOTICE OF PUBLIC COMMENT

Public Input Into Transition Plan for Home and Community Based Services (HCBS) for the Center of Medicare and Medicaid Services (CMS) Final Rule of January 2014

The Executive Office of Health and Human Services is advertising for public comment on the proposed Transition Plan that will be submitted to the Center for Medicaid and Medicare Services no later than June 30, 2015.

In January 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule regarding Medicaid-funded home and community based long-term services (HCBS). The rule requires that each state develop a Transition Plan for compliance with the new rule. Rhode Island is planning to submit their Transition Plan on June 30, 2015. That plan will propose June 30, 2019 as the date by which we will be compliant with the new requirements.

The summary of the intent of the Final Rule of January 2014 was to ensure that Medicaid HCBS services are provided to individuals in a setting that is **integrated** and supports full access to the community; is selected by the beneficiary; ensures an **individual’s rights** of privacy, dignity and respect, and freedom from coercion and restraint, optimizes autonomy and independence in making **life choices**; **facilitates individual choice** regarding services and supports, and who provides them; and, where possible, the person leads the process of developing his or her service plan.

A public hearing will be held to consider the proposed Transition Plan on **Thursday, April 30, 2015 at 9:00 am at the Hewlett Packard 203 Conference room, 301 Metro Center Blvd., Warwick, RI 02886**. Persons wishing to testify and provide comments at the meeting may do so by signing up at the meeting or by submitting written comment by May 30, 2015, to Thomas G. Martin, Implementation Director, Executive Office of Health and Human Services, Louis Pasteur Building # 57, 57 Howard Avenue, Cranston, RI 02920, or via email Tom.martin@ohhs.ri.gov.

A copy of the Transition Plan can be obtained through the following means:

- 1) EOHS website for Home and Community Based Services.

<http://www.eohhs.ri.gov/ReferenceCenter/HomeandCommunityBasedServices.aspx>


Scroll over to the Reference Center there is a clickable headline "Home and Community Based Services". A final version of the Transition Plan will be on the website.

- 2) Request a version by contacting:
Thomas G. Martin
Implementation Director
Executive Office of Health and Human Services
Louis Pasteur Bldg. #57, 57 Howard Avenue
Cranston, RI 02920
401-462-2596 Fax: 401-462-3677
E-mail: Tom.Martin@ohhs.ri.gov



The public hearing will begin at 9:00 am and will conclude when the last speaker finishes. The seating capacity of Hewlett Packard Conference room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The Hewlett Packard building is accessible to individuals with disabilities. Individuals with hearing impairments may request an interpreter's presence by calling 711 or Relay RI 1-800-745-6575 (Voice) and 1-800-745-555 (TDD). Requests for this service must be made at least 72 hours in advance of the meeting date. Please refrain from wearing scented products to the meeting. What may seem to be a mild fragrance can constitute a toxic exposure for a person with an environmental illness. The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap.


Elizabeth H. Roberts, Secretary
Signed this 31 day of March 2015



**Summary of Public Comment
Home and Community Based Service CMS Final Rule 2014**

June 19, 2015

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Maureen Maigret	Policy Consultant Senior Agenda Coalition of RI	Sent by e-mail 4/15/15 Dear Tom, I reviewed the draft. As persons age 65 and over are significant users of assisted living and adult day programs, I would like to see it amended to specifically include the Senior Agenda Coalition of RI or another group working on aging policy, particularly as it relates to HCBS in the list of advocacy entities on pages 4-5.	4/15/15 EOHHS Response submitted by Tom Martin by email: Hi Maureen, Thanks for review of the Transition Plan. The plan sites those that are currently part of the State Team. If you would like one of these agencies to be part of the State Team, please let me know. We have been meeting twice a month on Mondays at 9am at Barry Hall in room 226. Our next meeting is 4/27/15.
Joanne Malise	Director Living Innovations/DD Shared Living Provider	Sent by e-mail on 4/17/2015 Dear Tom Thank you for sharing the information on the Rhode Island HCBS Transition Plan. I can see that much work went in to this document. I am writing about my concerns regarding Shared Living Arrangements (SLA) and having a "legally enforceable agreement". While I completely understand the need for such a protection for the people we serve, when it comes to SLA there is a special challenge. I will bullet the concerns <ul style="list-style-type: none"> • By definition SLA is in the home of "another". This means in the home of a person approved and qualified to be home provider (HP). • If a participant were to have a lease, one could argue that the Shared Living residence is their legal home while they are in residence. • If the residence is legally theirs, the SLA might no longer fall under Federal Internal Revenue Code: Sec. 131. Certain Foster Care Payments, making all stipends ineligible for tax free status If the intent of the HCBS "legally enforceable agreement" is protection from eviction there are safeguards in place to address this potential vulnerability. Some of these safeguards are in BHDDH regulation and some are the best practice of this agency <ul style="list-style-type: none"> • The Contract signed with independent contractors who are home providers (HP) states that a thirty (30) day notice must be given if they wish to end the SLA <ul style="list-style-type: none"> ○ In practice, most SLA's continue until a new match is made with the participant • BHDDH Regulation 42.29 states that a Thirty (30) day notice must be given if the home provider wishes to move to a new residence. <ul style="list-style-type: none"> ○ In most cases the participant chooses to remain with their HP and moves to the new home • Each SLA participant in this agency signs an Adult Service Agreement that indicates their choice of this agency and their choice to live in this particular SLA. It also states that they can terminate the agreement with 24 hour notice but preferably give a thirty (30) day notice if they wish to move <ul style="list-style-type: none"> ○ In practice, anytime a person states that they feel unsafe they are immediately offered a respite home until such issue is resolved or a new match is made. • BHDDH Regulation 42.15 states that a participant may be removed immediately if there is a threat to 	4/27/15 EOHHS submitted by Tom Martin by email: Hi Joanne, We will review our policies and regulations on this issue. We will also seek technical assistance. We may ask to meet with you and other Shared Living Providers to vet the issue. Thanks, Tom



Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		<p>health or safety. How would a "lease" impact their ability to move freely?</p> <ul style="list-style-type: none"> • SLA HP's are independent contractors and the contract can be terminated at any time, with our without cause. This is another safeguard measure. <p>Thank you for your time in reading this response. I am confident we can come up with a protection that is not a "lease". I look forward to working with you Joanne</p>	
<p>Jenifer Crosbie/Director of Government Relations</p>	<p>Senior Link Caregiver Homes</p>	<p>Submitted Public Document on May 5, 2015. (summary of comments and document) Rite@home model is inaccessible to Rhode Islanders who should be accessible. Current process, timeliness and requirements in Rhode Island place unnecessary burden on consumers and caregivers, delaying access to critical and cost-effective services and duplicating efforts of paid professional staff. Urge EOHHS to consider and recommend immediate solutions that take advantage of quality providers in the provider network to expedite access to, high quality, cost-effective- community based care.</p>	<p>After review with State staff associated with the Caregiver Homes Program; EOHHS response submitted by Tom Martin by email: Hi Jenn,</p> <p>As part of the HCBS Transition Plan, the state is reviewing all rules and regulations for each program. We will review our current processes, timeliness and requirements in Rhode Island in order to assure access to critical services such as Caregiver Homes.</p> <p>Thank you for your comments.</p> <p>Tom</p>
<p>Anne M. Mulready Supervising Attorney</p>	<p>Rhode Island Disability Law Center</p>	<p>Item # 1: Ongoing Participant and Advocacy Group Input:</p> <ol style="list-style-type: none"> Issue of finding existing self-advocacy groups for some participant populations (e.g., elders and people with physical disabilities), so the state may need to find ways to involve individual participants in their feedback process. Participants may also need some training regarding the HCBS rules requirements in order for them to effectively provide feedback. <p>Item #2: Settings Compliance Findings:</p> <ol style="list-style-type: none"> It is not clear whether these findings will be made public. If the providers of non-compliant setting will have an opportunity to appeal the finding, the process similarly needs to be transparent and involve feedback from the impacted participants Urge the state to utilize CMS Exploratory Questions for residential settings to gain participant perspectives on whether there is strong evidence that the setting is community based. 	<p>Item # 1: Ongoing Participant and Advocacy Group Input:</p> <p>Response: The State has involved all relevant stakeholders in the areas mentioned above. The state has begun to initiate a consumer survey process and group meetings among stakeholders. We had an initial meeting on May 1, 2015.</p> <p>We will incorporate your suggestions on training on HCBS rules requirements in order to facilitate an effective feedback process. RIDL is also welcome to attend these meetings.</p> <p>Item #2: Settings Compliance Findings:</p> <p>Response: All findings will be made public by updating the Transition Plan. We will post the findings on our EOHHS website and can provide updates at the EOHHS task force meeting.</p> <p>In addition, providers will have an opportunity to review and appeal the findings. Our approach will be that of working collaboratively with providers to remediate findings with their input. This process will also be transparent.</p> <p>As part of the assessment process, we have identified participants/consumers as part of the process, therefore their feedback will important to the remediation of any finding.</p> <p>In regards to utilizing the CMS exploratory questions for residential settings, at our meeting on May,</p>



Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		<p>Item #3: Regulation Changes:</p> <p>a) Urge the state prioritize making regulatory changes sooner than January 2019.</p> <p>Item # 4 Consumer Transition to Compliant Settings:</p> <p>a) State to ensure that participants have sufficient and timely notice of the need to relocate and time for planning (using person-centered planning process) to transition to compliant services without a break in services.</p> <p>b) Urge state to prioritize person-centered planning implementation, so that the state will be better able to assess the desires of participants and the system's capacity to provided HCBS settings that meet those needs and desires.</p> <p>Item# 5 Legally Enforceable Tenancy Agreements:</p> <p>a) RIDL believes that most existing HCBS residential options (residential, assisted living) are not specifically exempt from state landlord/tenant laws, and so must comply with that law both with respect to tenancy agreements and termination of tenancies.</p> <p>b) Depending on the nature of the financial agreements, shared living arrangement may not be covered under the landlord/tenant laws, so the state may need to provide models of agreements and offer processes of eviction and appeals that are "comparable" to those under state and landlord/tenant laws.</p> <p>Item # 6: Choice of Non-Disability Specific Settings and Private Units in Residential Settings:</p> <p>a) It is not clear from the state transition plan how the state will assess the capacity within the current system to provide these options.</p> <p>b) Urge the state to collect information about individual choice of settings, including non-disability settings as soon as possible.</p> <p>Item #7: Planning for the needs of Behavioral Health participants:</p> <p>a) We urge the inclusion of the population with behavioral health needs in transition planning, both because behavioral health services are included within our 1115 waiver and because individuals with behavioral health needs often receive services in the same settings as HCBS participants.</p>	<p>1,2015 a tool was handed out to advocacy groups that cross walked those CMS questions. We are awaiting feedback on the tool. We can send you what was proposed at that meeting.</p> <p>Item #3: Regulation Changes:</p> <p>Response: The State's plan is not to wait until January 2019 to implement regulatory changes. Our plan is to identify regulation changes by January 1, 2016 and then begin to move issues forward with changes. This issue has been noted in the minutes of our State team meetings for the Transition Plan.</p> <p>Item # 4 Consumer Transition to Compliant Settings:</p> <p>Response: The state will ensure timely notice of the need to relocate and plan for transition without any break in services. The end date for compliance is March 2019, but the State will not use this as the benchmark to implement major life changes such as relocation and a break in service.</p> <p>The State has developed a Person-Centered Group that consists of advocates and stakeholders to move forward on person-centered planning. Our next meeting is June 18, 2015. RIDL is welcome to attend this meeting.</p> <p>Item# 5 Legally Enforceable Tenancy Agreements:</p> <p>Response: This is an area that the State will need to review regulations and current agreements to review for compliance. We may be seeking out Technical Assistance from CMS on this issue to see how other states have reviewed for this issue. Model agreements with processes of eviction and appeals consistent with state and landlord/tenant laws will be sought by the state.</p> <p>We anticipate seeking your input as we move closer to discussing this issue.</p> <p>Item # 6: Choice of Non-Disability Specific Settings and Private Units in Residential Settings:</p> <p>Response: As part of remediation strategy, the State will need to review the issue of capacity with all stakeholders to explore facilitating choice for settings. We will have to obtain some baseline data, especially regarding non-disability settings to move this issue forward.</p> <p>Item #7: Planning for the needs of Behavioral Health participants:</p> <p>Response: Persons with behavioral health needs are currently in some of the settings and HCBS services we are surveying. The State will more concretely involve behavioral health providers as we</p>



Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		<p>b) EOHHS is in the process of moving forward with obtaining final state and federal approval of housing stabilization and employment supports.</p> <p>c) The rules for person-centered planning process for individuals with behavioral health needs form the state rules for behavioral health organizations. These rules could be updated to meet the HCBS rule's person-centered planning requirements and the process could then be used to document participant preferences and desires for integrated settings.</p>	<p>continue to meet regarding person-centered planning.</p> <p>As noted in your comments, EOHHS is in the process of moving towards authority for housing stabilization and employment supports. We will update the public through the EOHHS task force (and the EOHHS website: www.eohhs.ri.gov) on that process as we move forward.</p>
James Nyberg Chief Executive	LeadingAge RI	<p>Item #1: In the 7- step remedial action process, suggest including providers and other stakeholder in these processes to support the state team.</p> <p>Item #2: Suggest that EOHHS coordinate with the Health Department and any other relevant entities to ensure that new providers are aware of these requirements at the earliest possible time, preferably before and construction is undertaken</p> <p>Item #3: Request that LeadingAge RI be included in Section F) List of Providers</p>	<p>Item #1:</p> <p>Response: In the Transition Matrix of the Transition Plan, updates were made to items #4, 5 and 6, each adding the wording "providers, advocacy groups and identified key stakeholders" under the section key stakeholders. Under the 7 step-remedial action process for assisted living and adult day care, updates were made to items #1 and 4 each adding the wording "providers, advocacy groups and identified key stakeholders"</p> <p>Item #2:</p> <p>Response: We agree that coordination with the Department of Health, EOHHS and any other relevant entities is necessary to ensure a prospective new provider is aware of the HCBS rules and requirements. Presently with the Department of Health on the State team and the inclusion of provider and advocacy groups, this issue will can be raised at State team meetings and be proactively planned for prior to any construction being undertaken. We have added to the Transition Plan under item #7 for assisted living sites and adult day programs, "Coordination between the Executive Office of Health and Human Services, the Department of Health and any other relevant entity, are to ensure that new providers are made aware of HCBS Final Rule prior to enrollment".</p> <p>Item #3:</p> <p>Response: We have added LeadingAge RI to Section F) List of Providers. We apologize for the oversight. We also appreciate your advocacy, comments to the assessment tool process, and also initiating an early discussion with the Executive Office of Health and Human Services on the HCBS Final Rule.</p>
Kathy Kuiper a		<p>Item #1: Choice in Residential programs</p> <p>a) Limited information available to look for a Day or Residential agency.</p>	<p>Kathy Kuiper kathy.kuiper@verizon.net</p> <p>Item #1: Choice in Residential programs</p> <p>Response:</p>



Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		<p>b) Impossible to tell from information provided to consumer and families about residential programs, the types of living arrangements, % of clients that work in paid employment in the community and if there are any safety issuer or complaints.</p> <p>c) Agency that does a great job is paid same as an agency that does a poor job.</p> <p>Item #2: Consumer Survey:</p> <p>a) Who will help the consumer take the survey?</p> <p>b) Will those results be made public?</p> <p>Item # 3: Leases</p> <p>a) Safeguards in place for individuals relying on housing made available to them through DD residential services.</p> <p>Item #4: Costs to Client:</p> <p>a) Clear and in writing the cost out of pocket to live at a location.</p> <p>b) Will the agency be required to become Rep Payee?</p> <p>c) Paying of staff to come along to events?</p> <p>d) Required Paperwork that is updated with an understanding of who is responsible for completion of the paperwork.</p> <p>Item #5: Dignity and Privacy:</p> <p>a) All adults that qualify for services under HCBS should have a private room.</p> <p>b) Client's apartment should not be used as an office.</p>	<p>The issue of choice regarding available options of where to live/receive services is identified as vulnerability in our initial assessment of residential settings of the Transition Plan. Advocacy groups are part of the State team and should provide this perspective when planning remedial action.</p> <p>The following was added to the Transition Plan under remedial actions item #1 for Residential/Shared Living, Assisted Living and Adult Day Program: Providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy.</p> <p>The issue of payment amongst providers by performance is outside the scope of the Transition Plan, but from our assessment process and implementation of HCBS rules, this may help provide some guidance that may improve quality amongst all providers.</p> <p>Item #2: Consumer Survey: Response:</p> <p>We currently have groups working on developing a Consumer Assessment Tool/Survey that will be part of the overall assessment process of the settings and the individual/consumer's experience. The group is currently working on the process of the administration of the tool and the assistance needed to complete it.</p> <p>The results of the assessment process will be transparent and the Transition Plan will be reflected to update the public on that process.</p> <p>Item # 3: Leases Response:</p> <p>The lease issue has also been identified as vulnerability in the Transition Plan and through the public comment process as an area of concern. Many issues have been raised and we will need to move this issue forward with legal and technical assistance to remediate the issue.</p> <p>Item #4: Costs to Client: Response:</p> <p>As part of the process of choice of setting, providing adequate information and communication to individuals and families on all of the above issues is essential. As noted earlier, we have updated the Transition Plan to state providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy.</p> <p>The issues you have raised will need to be part of the remedial action to include clear and in writing information on out of pocket costs, representative payee, the paying of staff to attend events and the point person in charge of completing required paperwork and available to the individual upon request.</p> <p>Item #5: Dignity and Privacy: Response:</p> <p>The intent of the Final Rule is to facilitate choice in such areas as having a private room. We know</p>



Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		<p>Item # 6: Complaint Process</p> <ul style="list-style-type: none"> a) Independent complaint and investigation process. b) New entity that is funded and knowledgeable of person with disabilities. c) Report should be a public record. <p>Items #7: Self-Assessment Planning Tools:</p> <ul style="list-style-type: none"> a) Potential to be "pencil whipped" and not provide any real insight as to choices made available to clients unless the comments section is filled out. <p>Item #8: Outcome based assessments:</p>	<p>choices are made based on resources and availability. The Final Rule assures that the issue is pushed to the extent possible to honor that choice.</p> <p>The assessment tool for residential settings does ask these questions to assure that issue is raised.</p> <p>Does the setting facilitate choices regarding services and supports and who provides them? Was the individual given a choice of available options regarding where to live/receive services? Was the individual given opportunities to visit other settings?</p> <p>Item # 6: Complaint Process Response:</p> <p>The issue of a newly funded independent complaint and investigative process, with a report of public record, may require legislative and regulation change. If in our review process (assessment and regulation review) we find issues with our current complaint and investigative process, we would move to review our system and discuss all options to improve these processes.</p> <p>Items #7: Self-Assessment Planning Tools: Response:</p> <p>The assessment tools in our Transition Plan do ask very specific questions about choice and person centered planning. The responses to the following questions connect to compliance with the Final Rule. In addition, the implementation of the Consumer Survey process should help provide us a further assessment facilitating client choice.</p> <p>Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?</p> <p>Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings? Can individuals and chosen representatives explain the process to develop and update their plan? Were individuals present during their last planning meeting? Did/does the planning meeting occur at a time and place convenient individuals to attend? Does the setting facilitate choices regarding services and supports and who provides them? Are individuals given a choice of available options regarding where to live/receive services? Were individuals given opportunities to visit other settings? Does staff ask individuals about their needs and preferences? Are individuals aware of how to make a service request? Can individuals choose the provider or staff who render the services they receive? Does the setting optimize interaction, autonomy and independence in making life choices? Are individuals given information to assist them to make informed decisions? Are individuals learning skills to enable them to maximize independence?</p> <p>Item #8: Outcome based assessments:</p>



Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
		<ul style="list-style-type: none">a) Include how many clients are working day/night, # of hours per week.b) Skills gained.c) How were clients given choices, frequency of # of times in the community and not as a pack?d) If client chose not to participate, what options were put in place, or did they just sit at the house?	<p>Response:</p> <p>Mentioned in the Transition Plan under the remedial actions for Day/Employment programs, is a survey to be done by the Paul V. Sherlock Center on Disabilities. The survey will focus on Employment and Day Programs and focus on obtaining data on integrated paid employment, facility based paid work, community based non-work activities and facility based non-work activities. This survey will be integrated into the remedial design strategy for 6/30/2016.</p> <p>In addition, the assessment process on the settings may also help us answer some of the questions of client participation and if clients were allowed to just sit in the house.</p>



List of Providers:

Executive Office of Health and Human Services

Rhode Island Assisted Living Association (RIALA)

Advocates in Action

Rhode Island Council of Developmental Disabilities

Paul V. Sherlock Center on Disabilities

Community Provider Network of Rhode Island (CPNRI)

Rhode Island Parent Information Network

Executive Office of Health and Human Services Task Force

LeadingAge of Rhode Island

Long Term Care Coordinating Council

Integrated Care Initiative Consumer Advisory Committee



H) Provider Self-Assessment Tools for Residential and Non-Residential Settings

CMS HCBS Community Rule: Assessment and Planning Tool for Settings

Residential Settings

In March, CMS finalized its HCBS Community Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services Waiver Program (HCBS). The intent of the rule is to assure that individuals receiving long-term services and supports through HCBS programs have full access to the benefits of community living and the opportunity to receive services in integrated settings. The accompanying summary of the CMS Community Rule provides more information and further context for the Community Rule may be found here: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

Rhode Island provides Medicaid-funded HCBS under the authority of an 1115 Waiver. While the final rule does not apply to states operating their HCBS under an 1115 Waiver, we support the intent of the rule and therefore will seek to comply with the requirements.

In order to meet the requirements of the new rule, states will need to develop a Transition Plan, “detailing any actions necessary to achieve or document compliance with setting requirements”. States will have up to 5 years to implement their stated plan.

An integral component of the transition plan is a self-assessment/plan of existing settings to determine how closely they currently comply or don’t comply with the Community Rule and if they don’t comply, what is needed in terms of a plan, over the next 5 years, to come into compliance.

Attached is a tool to assist you in conducting the residential setting self-assessment. Please answer each question (bold or bullet) with either “Yes” or “No” by checking the appropriate box. To help you answer the bold question, we have provided sub-questions (in a bulleted list) underneath each bold question. These bulleted questions are additional questions for you to answer and will help guide you to answer “Yes” or “No” to the bold question. Answer each and every question with a “Yes” or “No”.

Given the nature of your specific setting and given CMS guidance around settings that may not immediately comply with all aspects of the Community Rule, it may be more challenging to meet these requirements and be able to answer “Yes” to all bold and all bulleted questions. We assume, however, that you do aspire to achieve the outcomes articulated in the HCBS Community Rule over the next 5 years. So please be critical in your answers. We are not expecting you to answer “Yes” to every question.

Please complete and return then enclosed assessment by March 18, 2015.

Thank you for assistance!



To ensure that all community settings in which individuals receive a Medicaid Home and Community Based Service (HCBS) meet the spirit of the new CMS regulatory requirements, providers have been asked to assess their current settings and practices against the new requirements. CMS exploratory questions have been provided below to guide this assessment.

All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
1. Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?	Yes	No	Comments:
• Is the setting in a public or privately-owned facility that provides inpatient treatment?			
• Is the setting on the grounds of, or immediately adjacent to a publicly-funded healthcare institution?			
• Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as they choose?			
• Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?			
• Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?			
• Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer "No" to this question.)			
• Is the setting in the community among other private residences, retail businesses?			
2. Does the setting provide opportunities to engage in community life?	Yes	No	Comments:
• Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?			
• Are individuals aware of or have access to materials to become aware of activities occurring outside of the setting?			
3. Is the individual employed or does the individual attend day services outside of the setting?	Yes	No	Comments:
• Do individuals work in an integrated community setting?			
• If an individual is of working age, are there activities with the individual to pursue work as an option?			
• If work is not a goal, do individuals participate in meaningful day activities outside the setting?			
4. Does the setting provide opportunities to control personal resources?	Yes	No	Comments:



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Do individuals have a checking or savings account or other means to control funds?			
• Do individuals have access to their funds?			
5. Does the setting ensure freedom from coercion and restraint?	Yes	No	Comments:
• Is information about filing a complaint posted in an obvious location and in an understandable format?			
• Are individual's comfortable discussing concerns?			
• Do individuals know how to make a complaint?			
6. Does the setting ensure dignity, and respect?	Yes	No	Comments:
• Are individuals, who need assistance with grooming, groomed as they desire?			
• Are individuals dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?			
• Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'?			
• Is informal (written and oral) communication conducted in a language that individuals understand?			
• Does staff talk to other staff about individual(s) with dignity and respect?			
• Does staff ensure that conversations about individuals occur privately and not within earshot of other persons living in the setting?			
7. Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?	Yes	No	Comments:
• Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?			
• Can individuals and chosen representatives explain the process to develop and update their plan?			
• Were individuals present during their last planning meeting?			
• Did/does the planning meeting occur at a time and place convenient individuals to attend?			
8. Does the setting facilitate choices regarding services and supports and who provides them?	Yes	No	
• Are individuals given a choice of available options regarding where to live/receive services?			
• Were individuals given opportunities to visit other settings?			



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Does staff ask individuals about their needs and preferences?			
• Are individuals aware of how to make a service request?			
• Can individuals choose the provider or staff who render the services they receive?			
9. Does the setting optimize interaction, autonomy and independence in making life choices?	Yes	No	Comments:
• Are individuals given information to assist them to make informed decisions?			
• Are individuals learning skills to enable them to maximize independence?			
All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
10. Is there a legally enforceable agreement comparable to a lease?	Yes	No	Comments:
• Do individuals know their rights regarding housing and when they could be required to relocate?			
• Does the written agreement include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?			
11. Are there opportunities for individuals to have privacy?	Yes	No	Comments:
• Do staff or other residents always knock and receive permission prior to entering an individual's living space?			
• Can an individual have private visits with family and friends?			
• Is health information about individuals kept private?			
• Do individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time?			
12. Do individuals have choice of roommates?	Yes	No	Comments:
• Do individuals have their own bedroom?			
• If not, are individuals given a choice of a roommate? (Note: For individuals who room-share)			



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Do individuals know how to request a roommate change?			
13. Do individuals have freedom to furnish their sleeping units?	Yes	No	Comments:
• Are individual's personal items, such as pictures, books, and memorabilia are present and arranged as they desire?			
• Do the furniture, linens, and other household items reflect the individual's personal choices?			
14. Do individuals have control over their schedules?	Yes	No	Comments:
• Do individual's schedules vary from others in the same setting?			
• Do individuals have access to such things as a television, radio, and leisure activities that interest them and can they schedule such activities at their convenience?			
• Are individuals able to follow their own flexible (i.e., not set) schedule for waking, bathing, eating, exercising, activities, etc.?			
15. Are individuals able to have visitors at any time?	Yes	No	Comments:
• Are visitors welcomed and encouraged?			
• Is the furniture arranged as an individual prefers and does the arrangement encourage the comfort and conversation with visitors?			
16. Do individuals have access to food at any time?	Yes	No	Comments:
• Do individuals have a meal at the time and place of his/her choosing?			
• Can individuals request an alternative meal if desired?			
• Are snacks accessible and available anytime?			
• Can individuals sit in any seat in a dining area? (no assigned seats)			
• If an individual desires to eat privately, can s/he do so?			
17. Do the rooms have lockable entrance doors, with individuals and staff having keys as needed?	Yes	No	Comments:
• Can individuals close and lock the bedroom door?			



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Can individuals close and lock the bathroom door?			
18. Is the setting physically accessible to the individual?	Yes	No	Comments:
• Do individuals have full access to typical facilities in a home such as a kitchen, cooking facilities, dining area, laundry, and comfortable seating in the shared areas?			
• For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.?			
• Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?			
• Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?			
• Are appliances accessible to individuals (e.g. the washer/dryer are front loading for individuals in wheelchairs)?			
• Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?			
19. Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?	Yes	No	
• Does documentation note if positive interventions and supports were used prior to any plan modifications?			
• Are less intrusive methods of meeting the need that were tried initially documented?			
• Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?			



G) Appendix A-Provider Self-Assessment Tools for Residential and Non-Residential Settings

CMS HCBS Community Rule: Assessment and Planning Tool for Settings

Non-Residential Settings

In March, CMS finalized its HCBS Community Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services Waiver Program (HCBS). The intent of the rule is to assure that individuals receiving long-term services and supports through HCBS programs have full access to the benefits of community living and the opportunity to receive services in integrated settings. The accompanying summary of the CMS Community Rule provides more information and further context for the Community Rule.

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

Rhode Island provides Medicaid-funded HCBS under the authority of an 1115 Waiver. While the final rule does not apply to states operating their HCBS under an 1115 Waiver, we support the intent of the rule and therefore will seek to comply with the requirements.

In order to meet the requirements of the new rule, states will need to develop a Transition Plan, “detailing any actions necessary to achieve or document compliance with setting requirements”. States will have up to 5 years to implement their stated plan.

An integral component of the transition plan is a self-assessment/plan of existing settings to determine how closely they currently comply or don’t comply with the Community Rule and if they don’t comply, what is needed in terms of a plan, over the next 5 years, to come into compliance.

Attached is a tool to assist you in conducting the non-residential setting self-assessment. Please answer each question (bold or bullet) with either “Yes” or “No” by checking the appropriate box. To help you answer the bold question, we have provided sub-questions (in a bulleted list) underneath each bold question. These bulleted questions are additional questions for you to answer and will help guide you to answer “Yes” or “No” to the bold question. Answer each and every question with a “Yes” or “No”.

Given the nature of your specific setting and given CMS guidance around settings that may not immediately comply with all aspects of the Community Rule, it may be more challenging to meet these requirements and be able to answer “Yes” to all bold and all bulleted questions. We assume, however, that you do aspire to achieve the outcomes articulated in the HCBS Community Rule over the next 5 years. So please be critical in your answers. We are not expecting you to answer “Yes” to every question.

Please complete and return then enclosed assessment by March 18, 2015.

Thank you for assistance!



To ensure that all community settings in which individuals receive a Medicaid Home and Community Based Service (HCBS) meet the new CMS regulatory requirements, providers have been asked to assess their current settings and practices against the new requirements. CMS exploratory questions have been provided below to guide this assessment.

All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
1. Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?	Yes	No	Comments:
• Is the setting in a public or privately-owned facility that provides inpatient treatment?			
• Is the setting on the grounds of, or immediately adjacent to a publicly-funded healthcare institution?			
• Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as the individual chooses?			
• Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?			
• Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?			
• Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer “No” to this question.)			
• Is the setting in the community among other private residences, retail businesses?			
2. Does the setting provide opportunities to engage in community life?	Yes	No	Comments:
• Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?			
• Are individuals aware of or do they have access to materials to become aware of activities occurring outside of the setting?			
3. Is the individual employed or does the individual attend day services outside of the setting?	Yes	No	Comments:
• Do individuals work in an integrated community setting?			



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• If individuals are of working age, is there activity with the individual to pursue work as an option?			
• If work is not a goal, do individuals participate in meaningful day activities outside the setting?			
4. Does the setting provide opportunities to control personal resources?	Yes	No	Comments:
• Do individuals have a checking or savings account or other means to control funds?			
• Do individuals have access to their funds?			
5. Does the setting ensure freedom from coercion and restraint?	Yes	No	Comments:
• Is information about filing a complaint posted in an obvious location and in an understandable format?			
• Are individual's comfortable discussing concerns?			
• Do individuals know how to make a complaint?			
6. Does the setting ensure dignity, and respect?	Yes	No	Comments:
• Are individuals who need assistance with grooming, groomed as they desire?			
• Are individuals dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?			
• Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'?			
• Is informal (written and oral) communication conducted in a language individuals understand?			
• Does staff talk to other staff about individual(s) with dignity and respect?			
• Does staff ensure that conversations about individuals occur privately and not within earshot of other persons in the setting?			
7. Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?	Yes	No	Comments:



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?			
• Can individuals and chosen representatives explain the process to develop and update their plan?			
• Were individuals present during their last planning meeting?			
• Did/does the planning meeting occur at a time and place convenient for individuals to attend?			
8. Does the setting facilitate choices regarding services and supports and who provides them?	Yes	No	
• Are individuals given a choice of available options regarding where to receive services?			
• Are individuals given opportunities to visit other settings?			
• Does staff ask individuals about their needs and preferences?			
• Are individuals aware of how to make a service request?			
• Can an individual choose the provider or staff who render the services s/he receives?			
9. Does the setting optimize interaction, autonomy and independence in making life choices?	Yes	No	
• Are individuals given information to assist them to make informed decisions?			
• Are individuals learning skills to enable them to maximize independence?			
9. Is health information about individuals kept private?	Yes	No	Comments:
10. Is the setting physically accessible to individuals?	Yes	No	Comments:
• For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.?			
• Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the settings?			
• Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?			



All questions must be answered.			
Note: The answers to bulleted questions may help you answer the bold question leading each section.			
• Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?			
• Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?			
• Does documentation note if positive interventions and supports were used prior to any plan modifications?			
• Are less intrusive methods of meeting the need that were tried initially documented?			
11. Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?	Yes	No	Comments:



Attachment A

Core and Preventive Home and Community-based Service Definitions CORE SERVICES

Homemaker: Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home. Homemakers shall meet such standards of education and training as are established by the state for the provision of these activities.

Environmental Modifications (Home Accessibility Adaptations): Those physical adaptations to the home of the member or the member's family as required by the member's service plan, that are necessary to ensure the health, welfare, and safety of the member or that enable the member to attain or retain capability for independence or self-care in the home and to avoid institutionalization, and are not covered or available under any other funding source. A completed home assessment by a specially trained and certified rehabilitation professional is also required. Such adaptations may include the installation of modular ramps, grab-bars, vertical platform lifts and interior stair lifts. Excluded are those adaptations that are of general utility, and are not of direct medical or remedial benefit to the member. Excluded are any re-modeling, construction, or structural changes to the home, i.e. (changes in load bearing walls or structures) that would require a structural engineer, architect and/or certification by a building inspector. Adaptations that add to the total square footage of the home are excluded from this benefit. All adaptations shall be provided in accordance with applicable state or local building codes and prior approved on an individual basis by the EOHHS Office of Long Term Services and Supports is required. Items should be of a nature that they are transferable if a member moves from his/her place of residence.

Special Medical Equipment: Specialized Medical Equipment and supplies to include Ceiling or Wall Mounted Patient Lift, Track System, tub slider system, rolling shower chair and/or Automatic Door Opener, which enable a member to increase his/her ability to perform activities of daily living, including such other durable and non-durable medical equipment not available under the Medicaid-funded primary and acute care system that is necessary to address participant functional limitations. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the Medicaid-funded primary and acute care system and exclude those items that are not of direct medical or remedial benefit to the member. Medical equipment funded under the primary and acute care system includes items such as wheel chairs, prosthetics, and orthotics. These services that were provided under the authority of the Rhode Island State Plan prior to the 1115 Waiver approval. These items are still available under the 1115 Waiver and are described on the EOHHS website. All items shall meet applicable standards of manufacture, design and installation. Provision of Special Medical Equipment requires prior approval on an individual basis by the EOHHS, Office of Long Term Services and Supports and a home assessment completed by a specially trained and certified rehabilitation professional. Items should be of a nature that they are transferable if a member moves from his/her place of residence. Excluded are any re-modeling, construction, or structural changes to



the home, (i.e. changes in load bearing walls or structures) that would require a structural engineer, architect and/or certification by a building inspector.

Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances, such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g., reachers), and standing poles to improve home accessibility adaption, health, or safety.

Meals on Wheels (Home Delivered Meals): The delivery of hot meals and shelf staples to the waiver recipient's residence. Meals are available to an individual who is unable to care for his/her nutritional needs because of a functional dependency/disability and who requires this assistance to live in the community. Meals provided under this service will not constitute a full daily nutritional requirement. Meals must provide a minimum of one-third of the current recommended dietary allowance. Provision of home delivered meals will result in less assistance being authorized for meal preparation for individual participants, if applicable.

Personal Emergency Response (PERS): PERS is an electronic device that enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the individual's phone and programmed to signal a response center once a "help" button is activated. Trained professionals staff the response center, as specified by Center for Adult Health contract standards. This service includes coverage for installation and a monthly service fee. Providers are responsible to insure the upkeep and maintenance of the devices/systems.

LPN Services (Skilled Nursing): Licensed Practical Nurse services provided under the supervision of a Registered Nurse. Licensed Practical Nurse Services are available to participants who require interventions beyond the scope of Certified Nursing Assistant (C.N.A.) duties. LPN services are provided in accordance with the Nurse Practice Act under the supervision of a registered nurse. This service is aimed at individuals who have achieved a measure of medical stability despite the need for chronic care nursing interventions. Individuals are assessed by a Registered Nurse (RN) in the EOHHS, Office of Community Programs.

Community Transition Services: Community Transition Services are non-recurring set-up expenses for individuals who are transitioning from an institutional or another provider-operated living arrangement to a living arrangement in a private residence where the individual is directly responsible for his or her own living expenses. Allowable expenses are those necessary to enable an individual to establish a basic household; these expenses do not constitute room and board and may include: security deposits that are required to obtain a lease on an apartment or home, essential household furnishings, and moving expense, set-up fees or deposits for utility or service access, services necessary for the individual's health and safety and activities to assess need, arrange for, and procure needed resources. Community Transition Services are furnished only to the extent that the services are reasonable and necessary as determined through the service plan development process, the services are clearly identified in the service plan, and the individual is unable to meet such expense or the services cannot be obtained from other sources.



The services do not include ongoing shelter expenses, food, regular utility charges, household appliances or items intended for recreational purposes.

Residential Supports: Assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the preparation of food, and the social and adaptive skills necessary to enable the individual to reside in his/her own home and a non-institutional setting. Payments for residential habilitation are not made for room and board, the cost of facility maintenance (where applicable), or upkeep and improvement.

Day Supports: Assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills. Day supports focus on enabling the individual to attain or maintain his/her maximum functioning level, and are coordinated with any other services identified in the person's individual plan.

Supported Employment: Includes activities needed to sustain paid work by individuals receiving waiver services, including supervision, transportation and training. When supported employment services are provided at a work site in which persons without disabilities are employed, payment will be made only for the adaptations, supervision, and training required by an individual receiving waiver services as a result of his/her disabilities, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

Supported Living Arrangements: Personal care and services, homemaker, chore, attendant care, companion services, and medication oversight (to the extent permitted under state law) provided in a private home by a principal care provider who lives in the home. Supported Living Arrangements are furnished to adults who receive these services in conjunction with residing in the home. Separate payment will not be made for homemaker or chore services furnished to an individual receiving Supported Living Arrangements, since these services are integral to and inherent in the provision of adult foster care services.

Private Duty Nursing: Individual and continuous care (in contrast to part time or intermittent care) provided by licensed nurses within the scope of state law and as identified in the Individual Service Plan (ISP). These services are provided to an individual at home and require an assessment to be completed by a Registered Nurse (RN) from the Office of Community Programs.

Supports for Consumer Direction (Supports Facilitation): Focuses on empowering participants to define and direct their own personal assistance needs and services; guides and supports, rather than directs and manages, the participant through the service planning and delivery process. The Facilitator counsels, facilitates, and assists in development of an ISP which includes both paid and unpaid services and supports designed to allow the participant to live in the home and participate in the community. A back-up plan is also developed to assure that the needed assistance will be provided in the event that regular services identified in the Individual Service Plan are temporarily unavailable.



Participant Directed Goods and Services: Participant Directed Goods and Services are services, equipment, or supplies not otherwise provided through this waiver or through the Medicaid state plan that address an identified need, that are in the approved ISP (including improving and maintaining the individual's opportunities for full membership in the community), and that meet the following requirements: the item or service would decrease the need for other Medicaid services; AND/OR the item or service would promote inclusion in the community; AND/OR the item or service would increase the individual's ability to perform ADLs or IADLs; AND/OR the item or service would increase the person's safety in the home environment; AND alternative funding sources are not available. Individual Goods and Services are purchased from the individual's self-directed budget through the fiscal intermediary when approved as part of the ISP. Examples include a laundry service for a person unable to launder and fold clothes or a microwave for a person unable to use a stove due to his/her disability. This will not include any good/service that would be restrictive to the individual or strictly experimental in nature.

Case Management: Services that assist participants in gaining access to needed waiver and other state plan services, as well as needed medical, social, educational, and other services, regardless of the funding source for the services to which access is gained. Case managers are responsible for ongoing monitoring of the provision of services included in the individual's plan of care. Case managers initiate and oversee the process of assessment and reassessment of the individual's level of care and review of plans of care on an annual basis and when there are significant changes in client circumstances.

Senior Companion (Adult Companion Services): Non-medical care, supervision, and socialization provided to a functionally impaired adult. Companions may assist or supervise the participant with such tasks as meal preparation, laundry, and shopping. The provision of companion services does not entail hands-on nursing care. Providers may also perform light housekeeping tasks, which are incidental to the care and supervision of the participant. This service is provided in accordance with a therapeutic goal in the service plan of care.

Assisted Living: Personal care and services, homemaker, chore, attendant care, companion services, medication oversight (to the extent permitted under state law), therapeutic social and recreational programming, provided in a home-like environment in a licensed community care facility in conjunction with residing in the facility. This service includes 24-hour on-site response staff to meet scheduled or unpredictable needs in a way that promotes maximum dignity and independence, and to provide supervision, safety and security. Other individuals or agencies may also furnish care directly, or under arrangement with the community care facility; but the care provided by these other entities supplements that provided by the community care facility and does not supplant it.

Personalized care is furnished to an individual who resides in his/her own living units (which may include dually occupied units when both occupants consent to the arrangement) which may or may not include kitchenette and/or living rooms, and which contain bedrooms and toilet facilities. The consumer has a right to privacy. Living units may be locked at the discretion of the consumer, except when a physician or mental health professional has certified in writing that the consumer is sufficiently cognitively impaired as to be a danger to self or others if given the opportunity to lock the door. (This requirement does not apply where it conflicts with fire code.) Each living unit is separate and distinct from each other unit. The facility must have a central dining room, living room, or parlor, and common activity center(s) (which may also serve as living room or dining room). The consumer retains the right to assume risk, tempered only by the individual's ability to assume responsibility for that risk. Care must be furnished in a way which fosters the independence of each individual to facilitate aging in place. Routines of care provision



and service delivery must be consumer-driven to the maximum extent possible, and must treat each person with dignity and respect. Costs of room and board are excluded from payments for assisted living services.

Personal Care Services: Personal Care Services provide direct support in the home or community to an individual in performing Activities of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to disability. Personal Care Services may be provided by:

1. A Certified Nursing Assistant which is employed under a State licensed home care/home health agency and meets such standards of education and training as are established by the State for the provision of these activities.
2. A Personal Care Attendant via Employer Authority under the Self Direction option.

Respite: Respite can be defined as a service provided to a participant unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons who normally provide care for the participant. Respite services will be recommended and approved by EOHH, Office of Long Term Services and Supports.

PREVENTIVE SERVICES:

Homemaker: Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him/herself or others in the home. Homemakers shall meet such standards of education and training as are established by the state for the provision of these activities.

Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances, such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g., reachers), and standing poles to improve home accessibility adaption, health, or safety.

Physical Therapy Evaluation and Services: Physical therapy evaluation for home accessibility appliances or devices by an individual with a state-approved licensing or certification. Preventive physical therapy services are available prior to surgery if evidence-based practice has demonstrated that the therapy will enhance recovery or reduce rehabilitation time.



Respite Services: Temporary caregiving services given to an individual unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care for the participant. Respite services will be recommended and approved by EOHHS, Office of Long Term Services and Supports.

Personal Care Services: Personal Care Services provide direct hands on support in the home or community to an individual in performing Activity of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to disability. Personal Care Services may be provided to an individual by:

1. A Certified Nursing Assistant which is employed under a State licensed home care agency and meets such standards of education and training as are established by the State for the provision of these activities.

HABILITATIVE SERVICES:

Residential habilitation is individually tailored supports that assist with the acquisition, retention, or improvement in skills related to living in the community. These supports include adaptive skill development, assistance with activities of daily living, community inclusion, transportation, adult educational supports, social and leisure skill development, that assist the participant to reside in the most integrated setting appropriate to his/her needs. Residential habilitation also includes personal care and protective oversight and supervision.

Payment is not be made for the cost of room and board, including the cost of building maintenance, upkeep and improvement.

Day habilitation is provision of regularly scheduled activities in a non-residential setting, separate from the participant's private residence or other residential living arrangement, such as assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living.

Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice. Services are furnished consistent with the participant's person-centered plan. Meals provided as part of these services shall not constitute a "full nutritional regimen" (3 meals per day).

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



Attachment B

Official Transcripts of Public Meetings

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

* * * * * PUBLIC HEARING IN

RE:

TRANSITION PLAN TO IMPLEMENT THE
SETTINGS REQUIREMENT FOR HOME
AND COMMUNITY-BASED SERVICES CMS
FINAL RULE JANUARY, 2014

ORIGINAL

* * * * *

METRO CENTER BOULEVARD
SUITE 203
WARWICK, RI 02888
APRIL 30, 2015
9:00 A.M.

BEFORE: THOMAS MARTIN, HEARING OFFICER

M.E. HALL COURT REPORTING

108 WALNUT STREET

WARWICK, RI 02888

(401) 461-3331



EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1	NOTICE OF PUBLIC COMMENT	5
2	LEGAL NOTICE	5
3	NOTICE OF PUBLIC HEARING TO INTERESTED PARTIES LIST	6
4	CHAPTERS 40-6, 40-8 AND 42-7.2	6
5	PROPOSED TRANSITION PLAN	6



(COMMENCED AT 9:06 A.M.)

THE HEARING OFFICER:

So, welcome. We are here today regarding a public hearing concerning Rhode Island's Transition Plan related to the Centers for Medicare and Medicaid Services, Home and Community-based Services Rule.

This hearing is being conducted under the provisions of Chapter 40-6, 40-8, 42-7.2 and 42-35 of the Rhode Island General Laws, as amended. Today is Thursday, April 30, 2015. My name is Thomas Martin, and I will be the Hearing Officer for today's proceeding.

Before we start, and so as not to interrupt the proceedings, I would like to ask that those of you with cell phones, pagers and watch alarms to turn them off at this time.

The purpose of the hearing today to comment on the proposed Transition Plan. This hearing is intended for your participation only and is not intended as a means of providing a forum for discussing, debating, arguing, or otherwise having any dialogue on the record with the Members of The Executive Office of Health and Human Services.

If you care to speak, the procedure we will use is as follows:

One, register at the side of the room.

Two, speakers will be taken in order of registration.

Three, five minutes will be allowed for your presentation, unless the lack of speakers allows for additional time.

Four, when you are called:

- A) come to the podium, to the front of room.
- B) identify yourself by name and affiliation, if there is any.
- C) make your presentation.
- D) if you have a written copy of your statement, we would appreciate having that



for the record.

After the time has elapsed for submission of written commentary, the Executive Office of Health and Human Services has three options under State law.

The first option is to file as is with the Federal Centers for Medicare and Medicaid Services, known as CMS.

The second option is to file with minor changes, examples, spelling and punctuation. The third option, make major changes in what you see before you today, which would necessitate a new public hearing.

If there aren't any questions about how the public hearing will be conducted, at this time, for the record, we will have a presentation of the exhibits that will go into the record.

Exhibit 1 is a Notice of Public Comment signed by Elizabeth H. Roberts, Secretary of the Executive Office of Health and Human Services on March 31, 2015.

(EXHIBIT 1, NOTICE OF PUBLIC COMMENT, MARKED)

THE HEARING OFFICER:

The second exhibit is the confirmation of placement as a legal notice in the Providence Journal on April 1, 2015, from Mary Beth Garlick of the Providence Journal.

That's Exhibit 2. (EXHIBIT 2, LEGAL NOTICE, MARKED)

THE HEARING OFFICER:

Exhibit 3 is advanced Notice of Public Hearing sent via electronic mail to the Rhode Island Executive Office of Health and Human services, interested parties list, on April 14, 2015.

(EXHIBIT 3, NOTICE OF PUBLIC HEARING TO INTERESTED PARTIES, MARKED)

THE HEARING OFFICER:

Exhibit 4 is a copy of Chapters 40-6, 40-8 and 42-7.2 Of the Rhode Island General Laws, as amended.

(EXHIBIT 4, CHAPTERS 40-6, 40-8 AND 42-7.2, MARKED)

THE HEARING OFFICER:

Exhibit 5 is a copy of the proposed Transition Plan to Implement the Settings Requirements for Home and Community-based Services CMS Final Rule, January, 2014.

(EXHIBIT 5, PROPOSED TRANSITION PLAN, MARKED)



THE HEARING OFFICER:

According to the sign-in sheet, we don't have anybody who would like to speak. I'm asking if anybody does want to speak at this time; the opportunity does present itself?

(PAUSE)

THE HEARING OFFICER:

Is there any persons here present who would like to make a statement concerning the proposed Transition Plan?

(PAUSE)

THE HEARING OFFICER:

The submission of any written commentary on the proposed Transition Plan will be accepted until the close of business on Friday, March 29, 2015 -- May 29, 2015.

If there are no other comments, thank you for your attendance, and the hearing is now closed.

(HEARING CLOSED AT 9:12 A.M.)



C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript of my notes taken at the above-entitled public hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May, 2015.

Mary Ellen Hall

MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

DATE: April 30, 2015

IN RE: Public hearing in re: Transition Plan



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

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PUBLIC HEARING IN RE:

TRANSITION PLAN FOR HOME AND
COMMUNITY BASED SERVICES FOR
THE CENTER OF MEDICARE AND MEDICAID
SERVICES, CMS, FINAL
RULE JANUARY, 2014

ORIGINAL

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DAVINCI CENTER
470 CHARLES STREET
PROVIDENCE, RHODE ISLAND
MAY 5, 2015
4:00 P.M.

BEFORE: THOMAS MARTIN, HEARING OFFICER

M.E. HALL COURT REPORTING
108 WALNUT STREET
WARWICK, RI 02888

(401) 461-3331



EXHIBITS

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(COMMENCED AT 4:16 P.M.)

THE HEARING OFFICER: Welcome.

We are here today regarding a public hearing concerning Rhode Island's Transition Plan related to the Centers for Medicare and Medicaid Services, Home Community-based Services Rule. The hearing is being conducted under the provisions of Chapters 40-6, 40-8, 42-7.2, 42-35 and of the Rhode Island General Laws, as amended.

THE HEARING OFFICER:

Today is Tuesday, May 5, 2015. My name is Thomas Martin, and I will be the Hearing Officer for today's proceeding.

Before we start, and so as not to interrupt the proceedings, I would like to ask that those of you with cell phones, pagers, and watch alarms to turn them off at this time. The purpose of the hearing today is to afford interested parties an opportunity to comment on the proposed Transition Plan.

This hearing is intended for your participation only. It is not intended as a means of providing a forum for discussing, debating, arguing or otherwise having any dialogue on the record with Members of the Executive Office of Health and Human Services. If you care to speak, the procedure we will use is as follows:

One, register at the side of the room.

Two, speakers will be taken in order of registration.

Three, five minutes will be allowed for your presentation, unless the lack of speakers allows for additional time.

Four, when you are called, come to the desk at the front of the room. B, identify yourself by name and affiliation, if any. C, make your presentation. D, if you have a written copy of your statement, we would appreciate having that for the record.

After the time has elapsed for submission of written commentary, the Executive Office of Health and Human Services has three options under State law. First option, file as is with the Federal Centers for Medicare and Medicaid Services, CMS.



Second option, file with minor changes. Example, spelling, punctuation. Third option, make major changes in what you see before you today, which would necessitate a new public hearing.

Are there any questions on how the public hearing will be conducted today?

(PAUSE)

THE HEARING OFFICER:

If not, at this time, for the record, we will have a presentation of the exhibits.

Exhibit 1 is a Notice of Public Comment posted on the Executive Office of Health and Human Services web site on April 15, 16 2015.

(EXHIBIT 1, NOTICE OF PUBLIC COMMENT, MARKED)

THE HEARING OFFICER:

Exhibit 2 is an electronic confirmation of posting on The Rhode Island Secretary of State's web site on April 30, 2015, under the provisions of Rhode Island General Laws 42-46.

(EXHIBIT 2, ELECTRONIC AD, MARKED)

THE HEARING OFFICER:



Exhibit 3, advanced notice of public hearing sent via electronic mail from the Rhode Island Executive Office of Health and Human Services, Interested Parties List, on April 14, 2015.

EXHIBIT 3, NOTICE OF PUBLIC HEARING SENT TO INTERESTED PARTIES LIST, MARKED)

THE HEARING OFFICER:

A copy of Chapters -- Exhibit 4, a copy of Chapters 40-6, 40-8 and 42-72 of the Rhode Island General Laws, as amended.

(EXHIBIT 4, CHAPTERS 40-6, 40-8 AND 42-72 OF THE R.I. GENERAL LAWS, AS AMENDED, MARKED)

THE HEARING OFFICER:

Exhibit 5, a copy of the proposed Transition Plan to Implement the Settings Requirement for Home Community-based Services, CMS, Final Rule, January, 2014.

(EXHIBIT 5, PROPOSED TRANSITION PLAN)

THE HEARING OFFICER: At this time, I would like to call the first speaker. Jennifer Crosby. MS. CROSBY: I'm not going – my name is Jennifer Crosby. I work with Senior Link, the parent organization of Care Givers Homes, which is a supportive living arrangement provider here in Rhode Island. I work in government relations for Senior Link and address and access other states that are also providing this service.

Care Givers Homes, we operate supportive living-like arrangement services in five other states, Massachusetts Connecticut, Ohio, Indiana, and newest Louisiana and we will be operating in Texas by the end of calendar year 2015. My comments today have been submitted for the record.

My speaking comments are in regards to the five states, the five other states in which we operate, excluding Rhode Island. We have been, supportive living services have been deemed compliant with the HCBS Final Rule, and Rhode Island is the one state thus far to require providers' self assessments of shared living or supportive living arrangement-like services. While the service here in Rhode Island is fully implemented and operational and has been since 2010, it still remains largely inaccessible to many Rhode Islanders. Some of that is due to the lengthy enrollment process. Consumers on average take about three to nine months to enroll in the program or some withdraw their application based on the length of time it requires to enroll. Other states that we operate in --



Rhode Island also has the most restrictive requirements allowing only one consumer to be served at a time. So, families where daughters and sons are caring for both mom and dad are disallowed to participate in the program and receive care-giver support through care teams, RN's and managers. So, as a fully compliant home and community-based service through this HGBS Final Rule, supportive living arrangements provide a 24-hour benefit at roughly half the cost of a nursing facility stay and is a useful tool in all the states in which we operate to rebalance their long-term care expenditures. My comments, my spoken comments here today are to urge the State to identify efficiencies and programmatic changes to allow more Rhode Islanders to access right at home services which are the supportive living arrangement services authorized under the 1115 waiver. Thank you.

THE HEARING OFFICER: Thank you.

Are there any other persons here present who would like to make a statement concerning the proposed Transition Plan?

(PAUSE)

THE HEARING OFFICER: If not, this submission of any written commentary and proposed Transition Plan will be accepted until the close of business on Friday, May 29, 2015.

If there's not any other comments, we thank you for your attendance. We will still stay around a little bit longer for anybody else that comes in for comments. Thank you.

(OFF THE RECORD FROM 4:26 to 5:58 P.M.)

THE HEARING OFFICER: This hearing is officially closed. Thank you.

(HEARING CLOSED AT 5:58 P.M.)



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C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript of my notes taken at the above-entitled public hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May, 2015.

Mary Ellen Hall

MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

DATE: MAY 3, 2015

IN RE: PUBLIC HEARING IN RE: TRANSITION PLAN