GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES

POLICY	
Department on Disability Services	Subject: *HCBS Settings Rule Compliance*
Responsible Program or Office: Developmental Disabilities Administration	Policy Number: 2015-DDS-POL23
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Effective Date: April 1, 2015	Expiration Date, if any: N/A
Supersedes Policy Dated: N/A	
Cross References, Related Policies and Procedures, and Related Documents: DC Statewide Transition Plan, DDS Imposition of Sanctions policy and procedure, DDA Transition policy and procedure	

1. PURPOSE

This purpose of this policy is to establish standards by which the Department on Disability Services (DDS), Developmental Disabilities Administration (DDA), will require and achieve compliance with the Centers for Medicare and Medicaid Services (CMS) Home and Community-Based Services (HCBS) Settings Rule.

2. APPLICABILITY

This policy applies to all DDS/DDA employees, subcontractors, and provider agencies that provide services and supports on behalf of people with intellectual and developmental disabilities (IDD) who are receiving services through the Medicaid HCBS waiver for people with IDD (HCBS IDD waiver).

3. AUTHORITY

The authority for this policy for this policy is established in the DDS as set forth in D.C. Law 16-264, the "Department on Disability Services Establishment Act of 2006," effective March 14, 2007 (D.C. Official Code § 7-761.01 *et seq.*); and D.C. Law 2-137, the "Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978," effective March 3, 1979 (D.C. Official Code §7-1301.01 *et seq.*).

4. BACKGROUND

CMS issued a final rule effective March 17, 2014, that contains a new, outcome-oriented definition of home and community-based services settings. *See* 79 Fed. Reg. 2948-3029 (Jan. 16, 2014). The purpose of the federal regulation, in part, is to ensure that people receive Medicaid HCBS in a "setting [that] is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS." 42 CFR § 441.530(a)(1)(i) [79 Fed. Reg. 3032].

CMS required all states to develop an HCBS transition plan by March 17, 2015, that provides a comprehensive assessment of potential gaps in compliance with the new regulation, as well as strategies, timelines, and milestones for becoming compliant with the rule's requirements. *See* 42 CFR § 441.301(c)(6) [79 Fed. Reg. 3031]. The District of Columbia Transition Plan is available on the DDS website at: http://dds.dc.gov/page/waiver-amendment-info. The final rule and related guidance and documents are available at: www.hcbsadvocacy.org.

5. POLICY

It is the policy of DDS that all people who receive services through DDA and the HCBS IDD waiver receive supports in settings that are integrated in and support full access to the greater community. To that end, it is DDS's policy to fully comply with the requirements of the CMS HCBS Settings Rule by no later than March 17, 2019, and for DDS to take any actions necessary to ensure provider compliance, including imposition of sanctions in accordance with the DDS Imposition of Sanctions policy and procedure.

5. RESPONSIBILITIES

The responsibility for this policy is vested in the DDS Director. Implementation of this policy is the responsibility of the DDS Deputy Director for DDA.

6. STANDARDS

The following are standards by which DDS will evaluate compliance with this policy:

A. DDS shall establish an HCBS Settings Advisory Group that includes, but is not limited to, representatives from DDA, the Department of Health Care Finance (DHCF), and key stakeholders.

B. DDS shall conduct a comprehensive statewide self-assessment of its HCBS IDD waiver system, including a review of all applicable rules, regulations, licensing requirements, certifications processes, policies, protocols, practices and contracts to determine which characteristics of HCBS settings that are already compliant

and where there are gaps. Upon completion of the assessment, DDS will establish specific timelines and milestones for revisions needed to achieve compliance with the HCBS Settings Rule no later than March 17, 2019.

C. All active HCBS residential, day and vocational services providers shall conduct a critical and honest self-assessment in accordance with the process and timelines set out by DDS; cooperate fully with the assessment and transition process; and demonstrate on-going efforts, cooperation and progress towards compliance with the HCBS Settings Rule. Providers which self-report that they are non-compliant or are assessed by DDS to be non-compliant with the HCBS Settings Rule will be required to submit a Provider Transition Plan identifying the areas of non-compliance and describing their proposed plan for coming into compliance along with associated timelines that ensure compliance with all aspects of the HCBS Settings Rule no later than March 17, 2019.

D. DDS shall modify its existing service coordination day and residential monitoring tools to assess each person's experience with the HCBS settings on an ongoing basis. Additionally, this tool shall be posted on-line, distributed at ISP meetings to family members who may wish to complete and return them, and shared with the DC Supporting Families Community of Practice, so that families have an opportunity to complete the survey and share their perspectives. Additionally, this gives people who receive supports the opportunity to fill out the survey on their own, or with support from family, friends, and/or advocates.

E. DDS shall offer opportunities for training, technical assistance and capacity building for its staff and provider agencies to support compliance with the HCBS Settings Rule.

F. DDS Quality Management Division (QMD) shall routinely assess to determine which providers are unable or unwilling to conduct a self-assessment and/or come into compliance with the HCBS Settings Rule and impose sanctions, where applicable, in accordance with the DDS Imposition of Sanctions policy and procedure.

G. DDS shall require all providers found unwilling or unable to comply with the HCBS Settings Rule to cooperate with transition assistance to ensure all people who receive supports are transitioned to another provider, maintaining continuity of services, in accordance with DDS's Transition policy and procedure.

H. DDS QMD shall review the results of the National Core Indicators (NCI) Adult Consumer Survey and Family Surveys, reports from the *Evans* Court Monitor, and reports from the Quality Trust for Individuals with Disabilities to assess where indicators suggest systemic evidence of compliance or need for remediation with the HCBS Settings Rule. This will occur on a semi-annual basis, or as applicable based upon availability of new data.

I. Compliance includes, but is not limited to, the specific standards listed in this policy and in the District of Columbia Transition Plan for the HCBS IDD waiver.

Laura L Nuss

Laura L. Nuss, Director

3/30/2015

Date