DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850

Disabled & Elderly Health Programs Group

August 13, 2015

Claudia Schlosberg
Acting Senior Deputy/ Interim Medicaid Director
DC Department of Health Care Finance
441 4th Street, NW, 900S
Washington, DC 20001

Dear Ms. Schlosberg,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Washington, D.C.'s Statewide Transition Plan (STP) to bring District standards and settings into compliance with new federal home and community based settings requirements. The District submitted its STP to CMS on March 17, 2015. CMS needs supplemental information on several aspects of the STP, including identifying all settings where services are delivered, clarifying the process and outcomes for the systemic assessment, specifying the details of the site-specific assessment as well as its validation process and outcomes, elaborating upon timelines, milestones, and remediation and monitoring actions. These issues and related questions for the District are summarized below.

CMS is pleased the District has included the date by which it will re-submit a revised STP. CMS finds the resubmission date (March 1, 2016) to be reasonable. Once all systemic and site-specific assessments are completed, the revised STP should address CMS' issues detailed below. This revised STP should be posted for public comment for a period of 30 days prior to being submitted to CMS.

Assessments

- **Systemic Assessment.** Although CMS is encouraged by the District's initial assessment, CMS needs to understand more about the evidence the District used suggesting compliant settings. In the revised STP, the District should clarify the process and outcomes of its system assessment, including the settings impacted by each regulation, and the regulations on which the District's "yes/no" response in *Table 1: Legal Analysis of HCBS Settings Regulations compared to DC Regulations* of the STP were based. In addition, CMS asks that the District explicitly list all settings in which services are delivered under its waivers. For example, in the District's re-submission on March 1, 2016, it will be important for the District to address specifically how and in what manner day habilitation settings comport with the regulation.

- **Site-Specific Assessment.** CMS requests that the District provide additional detail about site-specific activities as well as its validation process and outcomes. For the site-specific assessments, this is the Provider Self-Assessment and the Assessment by People Who Receive Waiver Supports and their Families, CMS needs to understand how sampling will be done and what level of statistical significance the District plans to use. In addition, CMS requests that the District detail the sampling process for the validity check (e.g., what level of statistical significance will be used, and how the District will determine that significance). Additionally, CMS would like to better understand the interrelationship between the Provider Self-Assessment and the Assessment by People Who Receive Waiver Supports and their Families, as well as how these assessments will be linked to specific sites.
- **Timelines and Milestones.** CMS requests that the District elaborate upon the timelines and milestones for both the systemic and site-specific assessments in order to better understand how the District will complete the assessments in a timely manner, particularly for the Elderly and Persons with Disabilities waiver.

Remedial Strategies

- CMS needs more detailed information on remedial strategies leading up to March 2019. In order to fully understand the STP, CMS will need to see more specific delineated milestones against the assessment to assist the District and CMS in measuring steady progress toward compliance. It is CMS' understanding that the resubmission by the District in March 2016 will include more detail around the milestones. Additionally, CMS is supportive of the District submitting the detailed work plan as an addendum to the STP on the March 2016 submission date.

Ongoing Monitoring

- The District has noted that it will use National Core Indicators (NCI) data as part of its ongoing monitoring process. CMS would like the District to provide further information regarding how the NCI data will be used as a tool for monitoring settings. If the data cannot be linked to specific sites it is difficult to understand how the information can provide more than a general sense of the number of settings that may comport with the regulation.

Relocation of Beneficiaries

- CMS would like more information on the District's intended process of relocating beneficiaries and the estimated number of beneficiaries impacted, once known. Please describe the timelines for any such relocations and how beneficiaries will have ample time to choose alternate settings that meet their needs and that necessary services and supports will be in place at the time of transition.

Heightened Scrutiny

CMS needs more information describing the District's process for identifying settings that are presumed to have the qualities of an institution. These are settings for which the District must

submit information for the heightened scrutiny process if the District determines, through its assessments, that these settings do have qualities of a home and community-based setting and do not have the qualities of an institution. If the District determines it will not submit information on such settings as described in the regulation, the presumption will stand and the District must describe the process for informing and transitioning the individuals involved to other compliant settings or other settings not funded by Medicaid.

These settings presumed to have the qualities of an institution include the following:

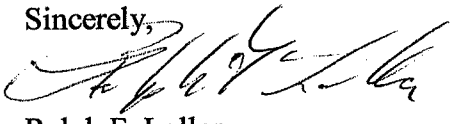
- Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

In this current version of the STP, the District references settings that isolate. However, CMS requests that the District also detail the process for identifying the first two bullets above for settings that are presumed to have institutional qualities.

Finally, the STP's transition plan for the I/DD Waiver is much stronger than the Elderly and Persons with Disabilities Waiver. CMS recommends the District consider strengthening the STP for the Elderly and Persons with Disabilities Waiver as well.

CMS would like to have a call with the District to go over these questions and concerns and to answer any questions the District may have. As stated above, the District must submit a revised STP, after posting it for public comment, including the changes noted above by March 2016. A representative from CMS' contractor, NORC, will be in touch shortly to schedule the call. Please contact Michele MacKenzie at 410-786-5929 or at Michele.MacKenzie@cms.hhs.gov, the CMS central office analyst taking the lead on this STP, with any questions.

Sincerely,



Ralph F. Lollar
Director, Division of Long Term Services and Supports