

## District of Columbia Statewide Transition Plan for Home & Community-Based Waiver Settings

### Responses to August 22, 2017 CMS Feedback

---

Submitted to CMS September 29, 2017

#### Changes needed for Initial approval:

##### HCBS Settings Analyzed under the STP – EPD Waiver:

- p. 2: The District should clarify within this section that all services provided under the EPD waiver are either provided in an individual's private home or in another setting. The state should also clarify the number of each of these different types of services. DC clarified as follows in italics: *The EPD waiver program is for the elderly and individuals with physical disabilities who are able to safely receive supportive services in a home and community-based setting. There are thirteen (13) services in the EPD waiver program. With the exception of two services, one residential service, Assisted Living, and one day program, Adult Day Health, these services are provided in an individual's private home, which is a non-disability specific setting.*

##### HCBS Settings Analyzed under the STP - IDD Waiver:

- p. 3: The District amended the language in its STP to now state that there are twenty-six (26) services offered through the IDD waiver. This is consistent with the IDD waiver in the Waiver management System (WMS). The District should confirm that all of these services are offered via the 617 sites identified under this waiver. If there are any services offered under the IDD waiver that are provided specifically within an individual's private home, the District should make the distinction. DC added the following sentence to this paragraph: DC notes that a number of these services are available in a person's private home, which is a non-disability specific setting: In Home Supports, Companion, Personal Care Services, Behavior Supports, Skilled Nursing, Wellness, Physical Therapy, Speech and Language Therapy, Occupational Therapy, Environmental Accessibility Adaptations, Vehicle Modification, Personal Emergency Response Services, Respite and Family Training.

Systemic Assessment Results: A spot check of DC's crosswalks was completed by CMS. As a result, a number of instances where CMS did not agree with the District's findings were identified. CMS asked the District to revisit its systemic assessment as a whole to ensure that all determinations are accurate with regard to each component of each federal requirement. The following specific examples from the spot check were sent to the District:

- In its previously submitted STP, DC included a crosswalk for Group Homes for Persons with Intellectual and Developmental Disabilities (IDD) regulations. However, the District did not submit a revised crosswalk for Group Homes for Persons with IDD regulations as

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

part of its April 2017 submission. If these regulations were included in another crosswalk, The District should verify that all pertinent standards are included. DC apologizes for the oversight and is including this as an attachment to the updated Statewide Transition Plan. There are no changes from the previous version submitted.

CMS requested that D.C. clarify its statement in the crosswalk for IDD policies and procedures, which states that, “The waiver regulations General Provisions require that any permissible deviation from HCBS Settings requirements is reviewed and approved as a restriction by the Provider’s Human Rights Committee.” CMS noted that review by the Provider’s Human Rights Committee is not sufficient to meet the requirements of 42 CFR 441.301(c)(4)(vi)(F), which prescribes a process a setting must follow for modifications of provider-owned or controlled residential setting conditions. CMS asked the District to propose remediation of its IDD waiver regulations to clarify that review by the Provider’s Human Rights Committee includes the criteria for modification of the additional conditions in provider owned and controlled settings at 42 CFR 441.301(c)(4)(vi)(F). DC has updated this chart throughout and will include it as an attachment to the updated Statewide Transition Plan. The new text reads: “DDS and DHCF are updating the waiver regulations Home and Community Based Settings Requirements to require that any permissible deviation from HCBS Settings requirements must be supported by a specific assessed need, justified and documented in the person’s person-centered Individualized Support Plan, as well as reviewed and approved as a restriction by the Provider’s Human Rights Committee (HRC).” The regulations have been drafted with stakeholder input and are in the review process. We aim to have them published by 12/31/2017.

Assisted Living Residences:

- On page 6 of the District’s Governing Regulations for Assisted Living Residences, the District specified that Assisted Living Residence Law does not specifically address the provision that, “the setting provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.” The District specified that, through the resident agreements, residents of an assisted living facility have control of their personal resources and community engagement but the law does not address the requirement that “the setting provides opportunities to seek employment and work in competitive integrated settings.” The District stated that there are plans to draft Assisted Living Residence regulations and this requirement will be recommended to be included as a standard to address this requirement. CMS asked how the District will remediate this requirement if this recommendation is not taken.

The District updated this chart in response to both bullets in the feedback addressing Assisted Living Residences: “Providers enrolled in the EPD Waiver are subject to EPD Waiver Regulations, which specifically address this stipulation. In addition, the stipulation will be addressed in sub-regulatory guidance for Assisted Living Residences.”

- On page 5, §44-105.04 is partially compliant on the individual’s right to choose who provides supports and services. Remediation is listed as: *There will be a stipulation in the newly developed regulation added that requires all Assisted Living Residences participating in the waiver program to comply with established Home and Community Based Waiver Services rules.[Under discussion.]* The state should add clarification that the regulation will be added.

See above.

Mental Health Community Residence Facilities (MHCRF)

- Page 11 of the MHCRF Assessment crosswalk: With respect to the requirement that individuals have the freedom and support to control their own schedules and activities, and have access to food at any time, CMS noted that title 22-B DCMR §3813.3 does not comport with the HCB settings criteria. Title 22-B DCMR §3813.3 requires the setting to provide “at least three meals and between meal snacks.” CMS commented that this is silent in regard to the settings criterion that the individual has access to food at any time.

The District updated this chart with the following language: The proposed regulations, now in 2<sup>nd</sup> proposed rulemaking, include the following language:

3834.10 Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day.

3834.11 In between designated meal times, residents shall have access to food. If a resident misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered.

EPD Waiver and Mental Health Community Residence Facilities:

- With respect to the requirement that individuals sharing units have a choice of roommates in that setting, the EPD waiver Assessment crosswalk, page 8, specifies that DHCF updated its regulations governing the EPD waiver to address this requirement.. EPD Waiver Regulation: 4200.6- (d) “relationship-building” “self-determination” & (g) “independence in making life choices” “personal interactions.” It states: “Support the beneficiary’s community integration and inclusion, including relationship-building and maintenance, support for self-determination and self-advocacy;” CMS finds this remediation language is not sufficient as it does not indicate that an individual has a choice of roommates when sharing a room.

The District updated the chart as follows: “Positive with need for further specificity in sub-regulatory guidance. Sub-regulatory guidance will stipulate that the setting must provide individuals who are sharing units a choice of roommates.”

### EPD Waiver/All Settings:

- Regarding the provision that the setting is selected by the individual from among setting options including non-disability specific settings, etc. the District accessed its current regulations as silent and included 4200.6 (a) Be chosen by the beneficiary receiving EPD Waiver services and (d) Support the beneficiary’s community integration and inclusion, including relationship-building and maintenance, support for self-determination and self-advocacy as remediation. This does not remediate that an individual will have a choice of non-disability specific setting option.

The District updated the chart as follows: “Positive with need for further specificity in sub-regulatory guidance. Remedial Strategy: Sub-regulatory guidance will stipulate that the individual will have a choice of non-disability specific setting options, whenever available.”

- The District specified that it made significant changes to the proposed EPD Waiver regulations to ensure compliance with CMS’ settings requirements and included the list of requirements on pages 99 of the STP. The list did not include the requirement that “Individuals sharing units have a choice of roommates in that setting.” CMS requested that the District please clarify.

The District added this clarification: “Because it is not specifically addressed in the rule, the District, in sub-regulatory guidance will stipulate that the setting must provide individuals who are sharing units a choice of roommates.”

### **Changes needed for Final approval:**

#### **Settings Assessment & Validation Activities**

**Defining Key Terms related to Setting Assessment & Validation Activities:** The District agreed to provide additional clarity regarding the differences between the following terms in the STP: on-site assessment, site-by-site assessment, and organizational assessment. Specifically, the District will distinguish which of these activities are conducted by the provider as opposed to state staff; whether they are all conducted onsite; and what each of these terms includes in terms of activities (ie. onsite visits, observations, document reviews, and/or consumer feedback). DC added a Note on Terminology that reads as follows:

**Note on Terminology:** Throughout the Statewide Transition Plan, and especially in this section, DC talks about several kinds of assessments for HCBS IDD Settings, including on-site assessment, site-by-site assessment, and organizational assessment. First, it is important to understand that with the exception of the one-time provider self-assessment, each of these assessments are done at the setting by District employees and contractors.

The terms **on-site assessment** and **site-by-site assessment** are used interchangeably and refer to two different assessment processes – Service Coordination Monitoring and Provider Certification Review. Both the Service Coordination and PCR assessments involve visiting the setting to gather data based on observation, interview/ consumer feedback, and record review.

- As part of Service Coordination Monitoring, DDS Service Coordinators conducted in-home interviews with every person who receives an HCBS IDD residential service to assess compliance with the HCBS Settings Rule at least annually.
- The Provider Certification Review (PCR) Team does an assessment of all HCBS IDD Day and Employment Settings and all HCBS IDD Residential providers that includes observation and interviews of a sample of people served by the program. PCR conducts site visits for all day and employment settings, as well as approximately 25% of all residential settings over the course of a year. The PCR survey tools and review guide are available on-line at: <https://dds.dc.gov/book/provider-certification-review-policy-and-procedures/provider-certification-review-guide-and>. The **organizational assessment** is part of the DDS Provider Certification Review process and is completed by the Provider Certification Review Team. It is an on-site review, and consists largely of ensuring the provider is in compliance with governing regulations, policies and procedures. It also includes observation, interview, and record review. The survey tool and guidance for reviewers is available on-line at: <https://dds.dc.gov/book/provider-certification-review-policy-and-procedures/provider-certification-review>.

### **Participant Experience Surveys:**

***Details of Beneficiary Participation in the Participant Experience Survey Process:*** CMS would like greater clarity as to how participant surveys are being conducted across the HCBS waiver authorities and setting categories. CMS requests additional details be provided in the STP on how the District is both selecting participants for the survey and also what proportion/percentage of participants per site are surveyed, who is conducting the consumer engagement, and by what mediums the information is captured across settings/waivers (ie. in-person interviews, written feedback, online, phone interviews, etc.). DC clarified that: “DDS Service Coordinators, who are government employees, conducted in-person interviews and observations with every person receiving HCBS IDD waiver residential services. This took place at each person’s residential setting.”

It is also important to describe the steps that are being taken to assure that. Based upon our call on 8/15/2017, DC believes this means to seek clarification on what occurs when a person reports something different than the provider. In response, DC added the following statement: “When, DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

through the interview with the person and observation, there was a score of 1 or 2, this resulted in the Service Coordinator entering an Issue into the Issue Resolution System. Providers were required to write a Plan of Correction and were offered technical assistance. Depending on the Issue generated, this was followed along by Service Coordinators or Quality Review Specialists (who are also DDS employees) until the provider was in compliance.”

EPD Settings: The italicized language was added on p.60 “The estimate of compliance, below, is determined based on resident responses to the HCBS Settings for Assisted Living and Community Residence Facilities Addendum to the LTSS Personal Care Aide (PCA) assessment conducted by DHCF’s contractor. The contractor’s nurses interviewed a sample of residents (approximately 26 percent) in EPD Waiver Assisted Living Facilities, who in addition to the assistance with activities of daily living (ADLs) provided by the staff in facilities where they live, requested PCA services. *It is the request for PCA services that triggered the selection for assessment, and engagement with the District’s contractor.* The contractor’s nurses made a determination of the level of need for additional PCA services during their visit, and completed the HCBS Settings Addendum with resident input.”

This statement on methodology was already included: “Nurses asked residents to respond “yes” or “no” to a series of statements that represent the HCBS settings criteria. The tool is attached.”

***Likert Scale in Ranking Participant Responses:*** Regarding the use of the Likert-type scale for the initial assessment contained in the STP, the STP only summarily describes the ranking process and does not sufficiently describe how each ranking was defined for survey respondents. The District should clarify exactly how each ranking was defined. DC added the following clarification: “This tool did not describe the rankings for scores of 2, 3 and 4. Instead the instruction to the service coordinator was as follows: “For each question, also ask the person to rank how often he or she gets to experience this, with 1 being never or rarely, and 5 being whenever he or she would like.” This resulted in data that might not be comparable across all people interviewed. Therefore, while DDS used the Likert-type scale for the initial assessment contained in the draft statewide transition plan, the tool was replaced with a Yes/ No format to ensure accuracy and clarity of results. The results of the Yes/No tool are provided as an attachment.”

### **IDD Waiver – Non-Residential (Employment & Day) Settings:**

- ***Methodology for Validating Community-Based Day Programs:*** CMS has concerns with the methodology used to evaluate community based day programs. The STP states that:

*“Given that each person in community-based day and vocational programs has individualized schedules, it would be impossible to evaluate every physical setting, because they are expected to change as people engage in the discovery process, learn about their community, try new things, and identify new interests. Therefore, for community-based day and employment settings, DDS used the Provider Certification Review process to do a 100%*

*organizational assessment of each provider's compliance, as well sample of observations and interviews with at least 10% of people attending each service."*

CMS acknowledges that the District has moved many people into individualized community-based day programming in recent years, and reaffirms that the District may presume any settings that HCBS beneficiaries engage in individual. CMS understands and acknowledges that typical places in the community where individuals may visit on a semi-regularly basis for short periods of time (for example, the library, movie theatre, parks, gyms, etc.) are settings that a state may presume meet the requirements of the HCBS settings rule. However, with respect to individuals that are grouped for community-based day (ie. a building or setting in which people convene in between community-activities or must spend some time in every day they are receiving community-based day activities) or supported employment services (ie. work crews, enclaves) and spend the majority of their time at one setting, it is critically important that those settings be assessed and validated. DC agrees and added information to this section, as described below, to more fully describe our process.

The number of onsite observational visits and interviews seems low for this category and no explanation concerning the questions being asked or the process used to choose program participants for interview is provided. DC added the following information about the assessment process: "The assessment of compliance was completed using PCR survey tools and included an in-person interview and observation, as well as record review. There are 12 of the 14 CMS requirements that are measured by PCR person centered indicators: (a),(b),(c),(d),(e),(g),(h),(m),(n),(q), (r) and (s). The CMS requirements of (f),(i) and (r) are captured in the PCR organizational indicators. Each of the CMS requirements are measured by one or more PCR indicators, so depending on the requirement, the data points have a wide range between one CMS requirement to another. For example, CMS requirement (a)-*The program ensures a person's rights of privacy, dignity, respect and freedom from coercion and restraint* is measured by three PCR indicators, while the CMS requirement (e)-*The program is integrated and supports access to the greater community* is measured by one PCR indicator."

DC added the following information about the sampling process: "The sample of people included in the review must be both representative of and proportional to a count of people receiving community based day or supported employment services. The selection must ensure that at least 10% of the people in each provider's service are selected. A sample number greater than 10% will be required for those services that have fewer than 10 people. The formula applied for these groups will be 10% of the total plus one. The numbers will be rounded up to create a sample number. For example, when there are five people in a service, the sample will be two, which is 40% of all people served ( $5 \times .1 + 1$ ). Once the sample size is determined, a representative sample will be selected, unless extenuating circumstances require modifications to sharpen the review focus. Some examples of extenuating circumstances are: (1) People with specific needs, such as people who have a behavioral support plan and/or take psychotropic medications, and need specialized medical supports. (2) At least one person in any location where there has been a pattern of serious reportable incidents and/or issues during the past year."

DC also added a link to the survey tools, guidance, and accompanying policy and procedure: “The PCR policy, procedure, guidance and survey tools are available on-line at: <https://dds.dc.gov/book/vi-administrative-dda/provider-certification-review-policy-and-procedures>.”

CMS believes further clarification regarding assessment and validation of settings where groups of individuals receiving community-based day or supported employment are spending the majority of their time is necessary. DC added the following information: “In addition to the PCR review, Service Coordinators conduct monitoring for every person who receives an HCBS IDD waiver day or employment service at least twice per year. These are on-site visits, that include interviews, observation, and record review, and are in addition to residential monitoring. Through service coordination monitoring visits, DDS is able to ensure that people in community-based day and employment programs have access to the greater community, have experiences with people who do not have disabilities, are not isolated, etc. Service Coordination Monitoring occurs on an ongoing basis, in accordance with the DDS Service Coordination Monitoring policy and procedure, available on-line at: <https://dds.dc.gov/book/service-coordination-monitoring-policy-and-procedures/service-coord-monitoring-policy> and provides for a 100% on-site review each year.”

CMS also requests that the District clarify what is meant in the STP where it states that the background data used to determine the estimate of compliance among community-day based programs is available upon request (in other words, please provide details on where individuals of the public can make the request for or directly access this information). DC added the following clarification: “The PCR yearly schedule for annual reviews is available upon request to the DDA Director of the Quality Management Division, as are the results of each provider’s PCR, which is the data used to determine the estimate of compliance.”

***Facility-Based Employment Readiness:*** Under facility-based employment readiness settings, the District wrote on page 20 that, “There are no facility-based employment readiness settings with 50 or more people receiving supports.” This factor alone would not rule out the possibility that one of these settings possessed qualities that may isolate HCBS beneficiaries from the broader community. CMS encourages the state reflect on this statement, and consider adding further details regarding additional factors the state is considering (and perhaps even re-reference the onsite review tool being used) in making determinations regarding whether or not a setting has characteristics that may have the effect of isolating individuals receiving Medicaid HCBS, and for those flagged as being potentially isolating (and thus presumed institutional), what factors these settings must demonstrate in order to show compliance with the federal HCBS rule and be submitted for consideration under heightened scrutiny review. DC agrees and clarified as follows: “DC recognizes that size of the facility/ how many people served are just one factor and would not rule out the possibility that one of these settings possesses qualities that may isolate HCBS beneficiaries from the broader community. Size is not the sole factor that DC is using in determining compliance with the federal HCBS requirements related to access to the broader community. The assessments completed through PCR and Service Coordination Monitoring test compliance DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback



with all elements of the HCBS Settings Rule, including whether or not settings tend to isolate. Above, DC describes the process we are using for Heightened Scrutiny review to determine whether any facility-based non-residential settings have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS.”

Additionally DC added the following added a statement to the section on Heightened Scrutiny: “This includes both Day Habilitation and Employment Readiness settings, regardless of their size and how many people the provider serves.”

- ***Non-Residential Settings & Size:*** The District is requested to confirm within the STP that size is not the sole factor that it is using in determining compliance with the federal HCBS requirements related to access to the broader community, and that it is considering several factors beyond size as outlined in the organizational assessment, participant experience survey, and PCR data to further explore the potential for non-residential settings, specifically the large day habilitation providers, to determine if a setting is isolating. DC agrees. Please see the two additions directly above.

***Heightened Scrutiny Identification of Non-Residential Settings:*** Please also provide an update on timing wise when the state thinks it will have made a final determination on whether or not to submit any non-residential day settings to CMS for heightened scrutiny review. DC corrected the date that we began collecting assessment data for heightened scrutiny review and added information on timing: “DDS will begin this process using PCR scores from May 1, 2017 and continue through the year until each day provider setting has undergone a review. DDS plans to make a final determination on whether or not to submit any non-residential day settings to CMS for heightened scrutiny review by January 2019. This gives us time to complete 100% of assessments, for providers to create and implement Corrective Action Plans as needed, and for DDS to determine whether any areas of noncompliance have been resolved.”

- Also, on page 11, please correct the statement to read that providers that “unsuccessfully” complete their CAPs will need to remediate any identified deficiencies. DC reviewed this page and did a word search of the STP and cannot find the statement to which CMS is referring.

### **IDD Waiver – Residential Settings**

***Inclusion of ICF Residential Provider Data:*** The Table on page 109 showed Provider Self-Assessment results aggregated for all HCBS IDD Waiver Residential Providers. However, it included results for some Intermediate Care Facility providers who operated wholly outside of the waiver program. CMS requested the District explain how it was ensuring that each residential service provider was meeting or will meet the HCBS settings requirements of the rule for any HCBS beneficiaries that were residing in these settings. This question also applied to all of the

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

setting types for which the District provided Aggregated Provider Self-Assessments. While the District included detailed results of Provider Self-Assessment results, it did not provide explanations for its process of ensuring that each residential service provider was meeting or will meet the HCBS settings requirements. CMS requests that the District please provide additional detail explaining how it will assure ongoing compliance of residential service providers that provide housing to individuals receiving HCBS under the IDD waiver DC added the italicized section to further describe our process: “Provider self-assessments were a point-in-time activity to kick off awareness and an initial assessment of system-wide HCBS compliance. After the initial request, DDS pivoted to focus on building capacity through our ongoing quality management system to assess, build capacity, and ultimately enforce compliance with the HCBS Settings Rule. For example, the changes we have made to Provider Certification Review, Provider Performance Review and Service Coordination monitoring all offer ongoing opportunities for assessment and remediation. Once these systems were put in place. DDS has been using them rather than continuing to use a provider self-assessment format *to ensure that each service provider is meeting or will meet the HCBS settings requirements.*” The STP provides detail on the PCR, Provider Performance Review and Service Coordination monitoring processes, how these are used to assess compliance, and describes how areas of non-compliance are entered into the Issue Resolution System and followed through to ensure remediation.

**EPD Waiver – Adult Day Health:** The other settings covered by the EPD waiver included 7 Adult Day Health sites that were assessed and deemed compliant in the last waiver amendment (October 2015) and are thus not included in the STP. CMS previously requested that the state clarify in the STP that these settings will be monitored for ongoing compliance as part of the monitoring process outlined for other settings. CMS is reaffirming its initial request that the District please clarify that the 7 Adult Day Health sites will be monitored for ongoing compliance as part of the monitoring process outlined for other settings.

The District added the italicized language on p.56: The District does not have any EPD day settings that are included in the Transition Plan. Enrollment for HCBS EPD Waiver day program providers will begin in FY 2017 under the newly established Adult Day Health Program (ADHP). These providers are being assessed for compliance with the HCBS requirements during the provider readiness and enrollment process, consistent with the process used for ADHP providers that recently enrolled under the 1915(i) program. *Adult Day Health Program providers enrolled in the EPD Waiver will be monitored for ongoing compliance by the EPD Waiver Unit and Oversight and Monitoring staff, in keeping with the monitoring provisions for all EPD Waiver providers.*

### **Residential Settings of Individuals receiving Day Supports:**

- Under the section entitled, “Day Settings for People Who Receive Supports from the HCBS IDD Waiver,” beginning on page 23, the STP stated, “In fact, several of our large providers, defined for this purpose as 50 or more people attending, inclusive of HCBS waiver beneficiaries and people who reside in an ICF/IDD and receive Active Treatment Services, have more promising results from the site-by-site assessments than some of the smaller providers.” CMS expressed several concerns about this statement and requests the District DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

explain what it means by “promising results”, and provide data to better support this particular statement or suggests removing or revising the statement altogether. DC agrees that this statement is confusing and has removed it from the STP.

- CMS also reiterates its initial request that the District provide an estimate of the number of people currently receiving Active Treatment Services that live in an ICF/IDD and describe what the state’s actions are to either transition these individuals into residential settings that comply with the HCBS rule or transition these individuals to other day options.

DC already included in the STP a statement that “DC clarifies that all individuals who receive HCBS IDD waiver funded day services reside in HCBS IDD waiver settings that will be compliant with all requirements of the HCBS Settings Rule by March 17, 2019. None live in ICF-IIDs or other institutional settings.” DC added this sentence to the section on the Aggregated Provider Self-Assessment Results for All HCBS IDD Waiver Residential Providers chart, as well. To further clarify, DC added the following statement: “No HCBS dollars are used to support any person who lives in an ICF-IID to attend a day service.”

#### **Site-Specific Remediation Process:**

- The District’s site-specific assessment results provided information on the HCBS regulations that are currently in need of the most remedial actions given the reported noncompliance rates; however, CMS requested that the District add more specific details to the STP which explain how the District will work with providers to develop individual remediation actions, and then how the District will monitor and confirm completion of the remediation plans during the transition period. DC added the following: “DC recognizes that changing regulations alone does not always lead to changes on the ground level for people receiving services. As described throughout this document, DDS is using a variety of quality functions to measure provider compliance with the HCBS Settings Rule, providing technical assistance, require individual remediation plans, called Provider Corrective Action Plans, and follow any issues through to remediation. This includes the changes we have made to our Provider Certification Review process to add questions that test compliance with all aspects of the HCBS Settings Rule; the new requirements for a Continuing Improvement Plan for HCBS Settings Compliance in Provider Certification Review through the Provider Performance Review; the revised Service Coordination Monitoring Tool; the focus on the HCBS Settings Rule at all Provider Leadership meetings, and more. Simply put, DDS has revised significant portions of our Quality Management System so that we have the ability to assess provider compliance with the HCBS Settings Rule; provide support for compliance; and ensure remediation throughout the transition period and ongoing.”
- The STP provided a detailed remediation plan for the NF LOC group of waivers for the site-specific assessment. CMS requests that the District confirm within the STP its timeframe for establishing remediation plans with providers and confirming their completion. DC added the following language to p.153: “The initial remediation plan will be requested from the provider within 30 days of the meeting. Until full compliance is achieved, or by March 2019 at the latest, compliance will be re-assessed every six months through on-site visits by the

District’s Long Term Care staff. During the on-site visits, and on an ad-hoc basis as determined by each site’s need, LTC staff will provide technical assistance to facilitate compliance. The monitoring tool used by the EPD Waiver unit to assess compliance will be used to guide the planning to reach compliance.

***Training and Capacity Building to Support Providers to Achieve Compliance with the HCBS Settings Rule:*** CMS appreciates the wide variety of efforts DDS has engaged in to help build capacity of its staff and provider agencies to support and facilitate compliance with the HCBS Settings Rule. On page 62, the STP states that “In the fourth quarter of CY 2015, DDS identified twelve day habilitation and employment readiness providers as requiring technical assistance to improve the quality of services and, ultimately, compliance with the HCBS Settings Rule. DD Service Coordination Planning Division and Quality Management Division launched an intensive monitoring and technical assistance effort, completing 469 visits and providing each provider with a breakdown of issues identified through monitoring, and focused the technical assistance on those areas.” CMS requests the District provide a summary of the issues identified and the technical assistance provided to address those concerns identified through monitoring.

The issues identified through this monitoring fell into 4 related buckets:

<b>Performance Area</b>	<b>Description</b>
Schedules/Activities/Choice	-Collects information on the daily activities scheduled and their alignment with a person’s interest
Discovery Tools	-Collects information on the presence, quality and outcomes of goals listed in Job Search/Community Participation Plans, Positive Personal Profiles, Community Inclusion Plans, etc.
ISP/Goals	-Collects information on type and feasibility of goals listed in the Individual Support Plan
Employment	-Collects information on a person’s interest in and pursuit of employment opportunities

DDS used a variety of strategies to address these issues, discussed in more detail in Section IV and throughout the STP. Each of the trainings listed below are still being offered regularly for providers and DDA staff:

- DDS developed and implemented standardized guidelines for better exploring HCBS IDD waiver beneficiaries’ interests and choices and likewise, developing community

integration goals that align with interests and choices. Policies and procedures for ISP planning were also modified to support these new processes.

- DDS partnered with national subject matter experts to provide skill development and competency training in the areas of person centered thinking and planning aimed at promoting community integration. The consultants also provided additional training for Service Coordination and provider staffs to increase competency in the use of planning tools with a focus on these new changes.
- DDS also added a new training, entitled Positive Personal Profiles Phase 2, which is designed to improve skills in developing quality Positive Personal Profiles and Job Search and Community Integration Plan. This was mandatory for service coordinators and day providers, and optional for residential providers.
- DDS commenced PCT Phase 2 training, a 12 week series that is how to use PCT tools beyond planning in service delivery.
- Additionally, DDS reviewed a sample of ISPs and Daily Schedules and modified them, as needed, to better reflect and align the person's interests with their ISP goals and ultimately, their actual involvement in community programs and activities.

In addition to these formal trainings, the service coordination and quality management staff provided just-in-time technical assistance related to each issue identified.

**Non-Disability Specific Settings:** CMS reiterates its initial request that the District add specific details demonstrating how the District assures beneficiary access to non-disability specific settings in the provision of residential and non-residential services. This additional information should include how the District is strategically building capacity to assure non-disability specific options.

DC added a new subsection to Section IV:

#### Building Capacity to Assure Non-Disability Specific Options

More than four years ago, DDS applied for and was one of six states to receive a grant through the Administration on Community Living (ACL) to participate in the Supporting Families of People with Intellectual and Developmental Disabilities throughout the Lifespan Community of Practice (Supporting Families CoP). Through this National CoP, DC was introduced to the LifeCourse Principles and has begun to weave them throughout our HCBS IDD service system.

One of the LifeCourse guiding principles is Integrated Supports:

*Individuals and families access an array of integrated supports to achieve the envisioned good life, including those that are publicly or privately funded and based on eligibility; community supports that are available to anyone; relationship-based Supports; technology; and that take into account the assets and strengths of the individual and family. In the past, conversations about supporting people with disabilities and their families mainly revolved around the supports offered by the disability service system. We are trying to help families as*

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

well as organizations and policymakers understand that we ALL access a variety of supports to make it through our daily lives.

See <http://www.lifecoursetools.com/principles/>.

The National Supporting Families CoP created several tools that can be used in person-centered planning to help people achieve integrated supports:

- Integrated Supports Star Worksheet: “All people need support to lead good lives. Using a combination of many different kinds of support helps to plot a trajectory toward an inclusive, quality, community life. This tool will help families and individuals brainstorm the supports that they already have or might need in order to work in partnership to make their vision for a good life possible.”
- Integrated Supports Options: “People often need support to lead good lives. Using a combination of many different kinds of support helps to plot a trajectory toward an inclusive, quality, community life. This tool will help families and individuals think about how to work in partnership to support their vision for a good life.”

See <http://www.lifecoursetools.com/planning/>.

DC has adopted both of these tools for our system. In October 2016, DDA revised its Intake process to begin using a new Front Door Tool, that uses PCT and the LifeCourse Framework to create a mini person-centered plan for the person at the start of the intake process and make early referrals to community resources, where appropriate. We wanted to reframe the front door to DDA supports to make them person-centered and strength based, with a goal to connect people to community-based supports as quickly as possible. We created a new guided conversation at DDA that starts by talking with people and their families about their strengths, using the PCT Like and Admire Tool. Next, we talk to people about what’s Working and Not Working in terms of the person being supported to identify gaps and needs for LTSS. Based on that information, we will problem solve with the person and his or her family and immediately offer referrals to community based supports. If needed, we will also then start the process for eligibility for public LTSS. The information we gathered at intake will flow into the DDA ISP and, if the person is being referred to another agency and consents, be shared with that agency for service planning. The revised Intake and Eligible policy and procedure, including the DDA Front Door Tool, pictured to the right, is on-line at: <https://dds.dc.gov/publication/dda-intake-and-eligibility-policy-and-procedures>.

In April 2015, DDS revised its Individual Support Plan (ISP) policy and procedure to require use of person-centered thinking tools and skills and the LifeCourse principle of Integrated Supports. As an example, the service coordinator and the support team must list the settings best suited for the person, using the framework of the Integrated Supports Star:

1. Personal strengths and assets;
2. Relationship based supports, also called natural supports;
3. Use of technology;

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

4. Community resources, e.g., adult literacy class through the D.C. Public Libraries; a fitness class through D.C. Parks and Recreation;
5. Eligibility-based supports, e.g., Medicaid State Plan services; and
6. Supports through the HCBS IDD Waiver.

The Annual Individual Support Plan Procedure is on-line at: <https://dds.dc.gov/publication/isp-annual>.

DDS has continued to work on revisions to our ISP format itself, as well as our policy and procedure to further incorporate these principles. Our new ISP and accompanying policy and procedure, which will go live on October 1, 2017, requires a discussion of integrated supports for each goal, specifically including a duty to ensure access to non-disability specific settings options. The new ISP policy and procedure will be posted on the DDS website by October 15, 2017.

To continue to build our capacity to incorporate an Integrated Supports approach, DC is participating in two National Supporting Families CoP Innovations Workgroups:

- **Lifecourse Support Coordination:** To increase the competencies and confidence of support coordinators in their critical role to shape conversations, develop and oversee individual support plan strategies through the person centered planning process that further the LifeCourse framework and share/brainstorm promising individual and systematic practices.
- **Family Front Door Innovation:** To work across states in rethinking, redesigning and implementing changes to the first interaction families have at the Front-Door of agencies when reaching out to the formal service systems, including long term services. The Innovations Workgroup's purpose is to share what states have done and brainstorm what can be done to change the Front Door conversations from solely a discussion of the service system to also provide families information, bridges to connect with other families, community networks, and other strategies that focus on hopeful and positive futures.

DC is also launching an on-line resource portal to help support teams identify public and provide long term service and supports options. The portal will be available to both government staff and to any person with internet access. This is being developed through the DC No Wrong Door initiative and is modelled after successful resource portals developed by the DC Department of Behavioral Health and the Mayor's Office of Veteran's Affairs. Resources are tagged in accordance with the LifeCourse Life Domains to aid in searching. The Life Domains principle states that:

*People lead whole lives made up of specific, connected, and integrated life domains that are important to a good quality of life. Our lives as everyday citizens are complex and multi-faceted. What happens in one area of our life (say, in our jobs) affects another (our family or housing situation). It is important to*

recognize the interconnectedness of everyday life so we can work to make our whole lives as complete and fulfilling as possible.

The Resource Portal was introduced to government partners on September 25, 2017 at our Summit: Enhancing the Front Door: Connecting and Collaborating. Throughout the next year, we will share it with people we support, families, and public and private partners through a series of presentations at upcoming meetings, including at Project ACTION!, the DC Supporting Families CoP, the Developmental Disabilities Council, and the University Center for Excellence in Developmental Disabilities Community Advisory Board.

Also in Section IV. Relative to EPD settings, DC added the italicized sections as follows on pp. 83 & 84:

#### Person-Centered Planning and Informed Consent

Funded by a grant from the federal Administration on Community Living (ACL) and the Centers for Medicare and Medicaid Services (CMS), four District agencies (the Department of Disability Services (DDS), the Department of Health Care Finance (DHCF), the Aging and Disability Resource Center (ADRC) within the District of Columbia Office on Aging (DCOA), and the Department of Behavioral Health (DBH)) are collaborating to develop a plan to implement a No Wrong Door (NWD) system to streamline and facilitate access to long term care services and supports (LTCSS). A major emphasis of the District's planning activities is optimizing informed choice and promoting person-centered thinking and planning among District agency staff and service providers.

It should be noted that that while each of the participating agencies' systems address person-centered planning and informed consent already, the NWD planning is providing an opportunity to coordinate these efforts. The HCBS IDD waiver is fully compliant with federal person-centered planning and informed consent standards.

*Through the NWD initiative, DC is also launching an on-line resource portal to help support teams identify public and provide long term service and supports options. The portal will be available to both government staff and to any person with internet access. The portal is modelled after successful resource portals developed by the DC Department of Behavioral Health and the Mayor's Office of Veteran's Affairs. Resources are tagged in accordance with the LifeCourse Life Domains to aid in searching. The Life Domains principle states that:*

*People lead whole lives made up of specific, connected, and integrated life domains that are important to a good quality of life. Our lives as everyday citizens are complex and multi-faceted. What happens in one area of our life (say, in our jobs) affects another (our family or housing situation). It is important to recognize the interconnectedness of everyday life so we can work to make our whole lives as complete and fulfilling as possible.*



*The Resource Portal will be introduced to government partners in September 2017 at our upcoming Summit: Enhancing the Front Door: Connecting and Collaborating. We will share it with people we support, families, and public and private partners through a series of presentations at upcoming meetings, including those with the Disability Community Outreach Collective, the Long Term Care Coalition, the DC Center for Independent Living, and the DC LTC Ombudsman's Office.*

Later in the same section on p.83, DC added this following italicized language:

*Over the course of three months, DHCF worked with providers, stakeholders, and DHCF staff to develop its EPD waiver requirements, person-centered planning (PCP) template, and PCP policy in order to meet compliance with CMS rules on PCP. During this time, DHCF piloted the PCP process with a number of providers and conducted at least five (5) trainings for over 250 case managers, ADRC staff, and DHCF staff. The PCP policy was published in October 2015, and went into effect November 1, 2015. As of October 31, 2016, each individual in the EPD waiver has a PCP. Since publication, DHCF has met with case managers on a monthly basis to provide ongoing information and technical assistance on person-centered planning. *Through this on-gong technical assistance and in its policies and procedures for the EPD Waiver which are under development, the District will provide specific guidance on the cultivation of non-disability-specific options, as well as the foundations for practicing meaningful community integration. There will be an emphasis on approaches to inclusion that are person-centered, and whenever possible involve full participation in community activities and life outside of HCBS facility settings, when such settings, e.g. Assisted Living facilities and Adult Day Health sites, are utilized. All individuals in the EPD Waiver Program have options for receiving services in non-disability specific settings, including residential and non-residential options. All services under the EPD Waiver, with the exception of Adult Day Health Services and Assisted Living, allow individuals to receive services in their own home.**

**Reverse Integration:** CMS requests additional detail from the state as to how it will assure that non-residential settings comply with the various requirements of the HCBS rule, particularly around integration of HCBS beneficiaries to the broader community. As CMS has previously noted, states cannot comply with the rule simply by bringing individuals without disabilities from the community into a setting. Compliance requires a plan to integrate beneficiaries into the broader community. Reverse integration, or a model of intentionally inviting individuals not receiving HCBS into a facility-based setting to participate in activities with HCBS beneficiaries in the facility-based setting is not considered by CMS by itself to be a sufficient strategy for complying with the community integration requirements outlined in the HCBS settings rule. Settings cannot comply with the community integration requirements of the rule simply by only hiring, recruiting, or inviting individuals, who are not HCBS recipients, into the setting to participate in activities that a non-HCBS individual would normally take part of in a typical community setting. CMS requests the District to provide sufficient detail as to how it will assure both residential and non-residential settings implement adequate strategies for adhering to these requirements.

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

DC added a new subsection to Section IV to better describe how we use our person-centered planning approach to ensure HCBS IDD waiver beneficiaries are integrated into the broader community:

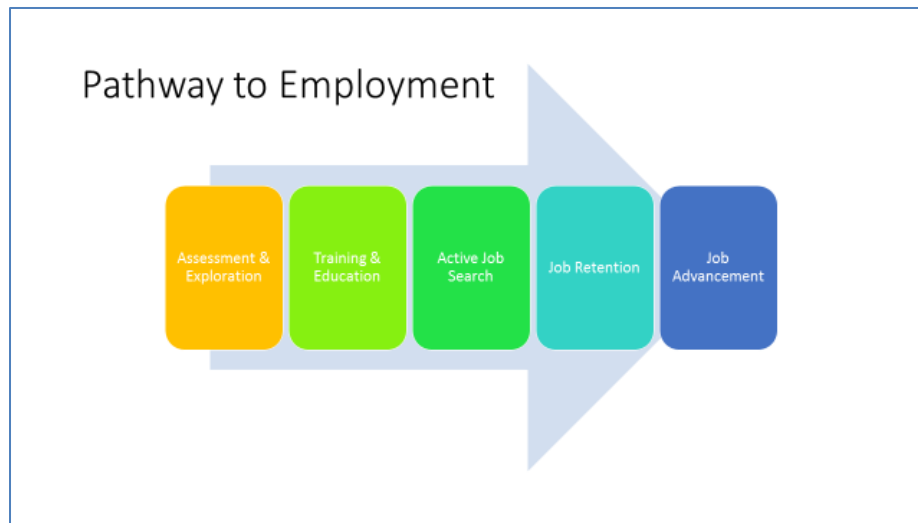
#### Guided Conversations to Determine Interest In Employment; and Most Integrated Settings

In April 2015, DDS amended its ISP format to require Guided Conversations to Determine Interest In Employment; and Most Integrated Settings. These tools and conversations, as part of the person-centered planning process, keep the focus on how to engage the person in their community. They do not include a “reverse integration” approach because there is a common understanding at the state level that reverse integration alone is not a sufficient strategy to for complying with the community integration requirements outlined in the HCBS settings rule.

As part of the Individual Support Plan process, the service coordinator engages each person in guided conversations to determine the person’s interest in employment; any barriers to employment; and goals and activities to advance the person on his or her path to competitive, integrated employment, all of which shall be reflected in the ISP. DDS worked with national subject matter experts through the State Employment Leadership Network (SELN) to create a tool, Assessing a Person’s Interest and Progress Towards Employment, which includes talking points, key considerations, recommended questions, links to PCT and Discovery tools, and recommended next steps. Please see:

<http://dds.dc.gov/sites/default/files/dc/sites/dds/publication/attachments/Assessing%20Employment.pdf>. Through the guided conversation, the support team is able to identify which stage a person is in on his or her pathway to employment:

- If the person is 64 years old or younger and is not interested in employment at this time, he or she is in the Assessment and Exploration phase.
- A person of any age who is interested in employment would fall into either the Training and Education or Active Job Search phase.
- A person who is working and likes their job would be in the Job Retention phase.
- A person who is working, but would like better hours, pay, increased responsibilities, etc., would be in the Job Advancement phase.
- A person who is 65 or older and prefers retirement activities to work would be in the Retirement phase.
- Finally, a person may be facing a life challenge or crisis that is a barrier to achieving or pursuing employment at this time, in which case the conversation is deferred to a later time.



The guided conversation results in each person having a goal that advances the person on his or her pathway to integrated employment or retirement. This is in accordance with DDS's Employment First policy that establishes Employment First as a priority and guiding philosophy for people with disabilities who receive services from the agency. The policy requires that every working-age person with a disability who receives supports shall be presumed to prefer and be capable of individualized competitive integrated employment on a long-term basis in the community over other less integrated alternatives. Please see: <http://dds.dc.gov/publication/employment-first-policy>.

DDS modified the ISP template itself to include a section on the Pathway to Employment, which requires at least one employment or integrated retirement-related goal and includes recommended goals for each stage on the pathway. As examples, a person who is in the Assessment and Exploration phase may have a goal to learn more about the benefits of employment; volunteer in the community; explore his or interests and try new things; improve communications or other soft skills needed to succeed at work and on job interviews; learn about and practice self-determination and/or self-advocacy, etc. A person in the Training and Education or Active Job Search phase might have one or more goals to understand the impact of working on public benefits; get training or education to learn skills for a job; build his or her network of people who will help and support him or her to learn about and get a job; search for jobs that fit the person's interests and skills; etc. DDS also issued guidance that describes benchmarks on the pathway to employment and community integration. Please see: <http://dds.dc.gov/publication/pathways-employment-and-community-integration-benchmarks>.

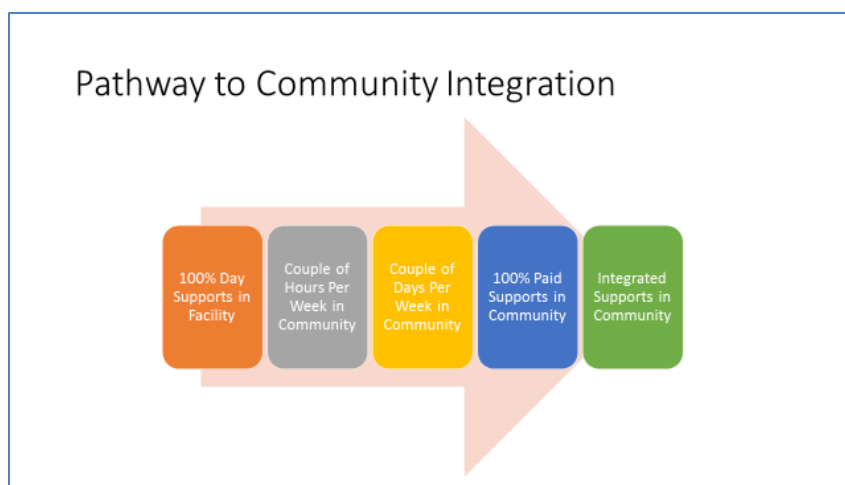
Next, the service coordinator engages the person in guided conversations to ensure that each person is supported in the most integrated setting appropriate to meet his or her needs, in accordance with the DDA Most Integrated Community Setting policy, available on-line at: <http://dds.dc.gov/book/ii-service-planning/most-integrated-community-setting-policy>. As with the pathway to employment, DDS, with the support of Dr. Lisa Mills, created a tool: Assessing Whether a Person is in the Most Integrated Day or Vocational Setting Appropriate to His or Her Needs and Supporting Informed Choice. This tool includes key considerations, recommended

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

questions, linkages to PCT and Discovery tools, required documentation, and recommended action plans. Please see: <http://dds.dc.gov/publication/assessing-most-integrated-day-informed-consent>.

Through the guided conversation, the support team begins by assessing where the person is on his or her pathway to community integration using the following framework. Please note that the framework looks to the person's integration in the community. Reverse integration is not a considered factor:

- The person spends almost all day in a facility (no or very few community integration activities are occurring), or when he or she does go out, it is in large groups and/or he or she does not get to spend time with people who do not have disabilities other than staff.
- The person spends some time doing things in the community that match his or her interests in small groups and/or he or she spends time with people who do not have disabilities, but in total, it is one day (6 hours) or less, each week.
- The person spends a couple of days each week doing things in the community that match his or her interests in small groups and/or he or she spends time with people who do not have disabilities. For example, the person has a job, participates in IDS, volunteers, or attends a day or employment readiness program without walls.
- The person spends most or all of his or her week in the community and with people who do not have disabilities.



In determining the extent of a person's experiences with community integration, DDS offers the following examples: small group community integration activities through facility-based day habilitation or employment readiness programs; a day habilitation or employment readiness programs without walls; volunteering in the community; integrated senior centers; individualized day supports; employment with or without supports; and other meaningful community non-work,

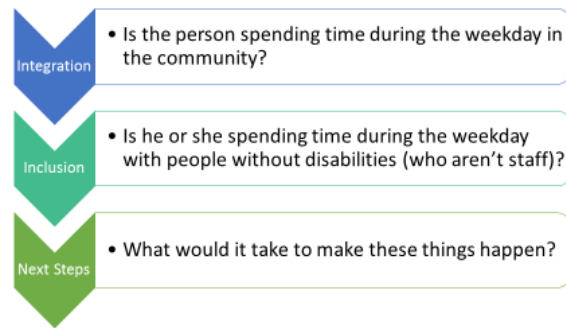
such as participation in a club or on an advisory board. A large group community outing is not typically considered a community integration activity.

After establishing where the person currently is on his or her pathway to community integration, the tool takes the team through a conversation to review each goal that is currently being implemented through a day or employment service (Day Habilitation, Individualized Day Habilitation, Employment Readiness, and/or Supported Employment goals). For every goal, the team discusses the following questions:

- Is the goal SMARTER? (Specific, Measureable, Attainable, Relevant and Time-Bound, Evaluated and Revised)
- Does the goal reflect the person's interests and preferences, as documented in the PCT and Discovery tools?
- Are activities to implement the goal taking place, at least some of the time, in the community and with people who do not have disabilities?
- If no: Could the activities take place, at least some of the time, in the community and with people who do not have disabilities?
- If no, is this the person's choice? If it's the person's choice, what alternatives has the person explored? Has that exploration included experiences in other settings and opportunities to assess these other experiences?
- If no, what are the barriers?
- What would need to change so that the person could spend more time in the community and with people who do not have disabilities?

The service coordinator has specific documentation requirements, which include identifying and describing opportunities for community participation and engagement based on an individual's interests, goals and specific activities; an indication of how engagement in these activities further community integration and inclusion; if a goal cannot be implemented or fully implemented in an integrated community setting at this time, an explanation of why not; and an action plan to address any barriers to community integration and inclusion, based upon the PCT principles of balancing Important To and Important For.

## Assessing Most Integrated Day



The guided conversation results in each person having a goal that supports the person's pathway to community integration such as exploration of interests, opportunities to develop new relationships, meaningful community involvement, community membership and contribution, and self-determination. DDS changed the ISP template to include a section on the Pathway to Community Integration that asks each person: "What would I like to do to help me achieve greater community integration or inclusion?" Recommended goals include, but are not limited to:

- Volunteering in the community;
- Building and maintaining relationships;
- Exploring interests (trying new things);
- Exploring employment options;
- Exploring retirement options, for people who are older;
- Learning about and practicing self-advocacy;
- Joining and participating in a community group; and
- Participating in wellness/fitness activities in the community.

Over time, DDS will be able to track progress on the pathways to employment and community integration, both person by person, and systemically, for all HCBS IDD waiver beneficiaries.

Relative to EPD settings, see references to community integration and full inclusion above as added to pp.83-84.

**Monitoring of Settings:** While the latest STP provides frequencies of several of its monitoring activities, the District does not provide any formal timeline or milestones for each component of its proposed monitoring process. The District references two work plans: one for its DDS-IDD waiver settings transition and one for its DHCF-EPD waiver settings transition. An updated version of the DDS work plan for IDD waiver settings was to be posted online by December 31, 2016. However, the District did not provide a link and the plan could not be located online. The

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

District submitted the DHCF work plan for its EPD settings as part of its STP and stated that an updated version of this plan is to be posted online by June 2017. Once finalized, both work plans should be included in the STP. The District should clarify timelines listed as in-progress and ongoing and provide calendar due dates rather than just list the year in which the activity is to be completed. Further, these work plans should include a monitoring category so that CMS and the public can track the District's progress related to monitoring of settings.

DC added the following update to the STP and will attach the HCBS IDD work plan: "DC does have an updated and detailed workplan for HCBS IDD waiver compliance, which we will include as an attachment to the STP. Although DC created this within the timelines listed in the STP, and is using it to track progress, we did not publish it online. This is because we have viewed this as an interim document. We understand that DC would soon be receiving a Milestone Reporting Template from CMS and we planned to use that to report both to CMS and the public on our progress. Once received, DC will decide which tool works best for the public. DC will publish updates on an annual basis on our website."

DC attached the HCBS EPD work plan with an overview of major tasks that responds to requested changes. As noted for the HCBS IDD workplan above, we understand that DC would soon be receiving a Milestone Reporting Template from CMS and we plan to use that to report both to CMS and the public on our progress. Once received, DC will decide which tool works best for the public. DC will publish updates on an annual basis on our website.

**Relocation of Beneficiaries:** CMS thanked the District for including a general description of the District's intended actions surrounding relocation of beneficiaries, and also a link to separate transition policies and procedures on the District's website (pg 11). To date, five individuals had been identified as requiring transition to a new setting. The District should provide a timeline, with intermediate milestones, to assure all relocation activities are completed by March 17, 2022. Additionally, once that information is available, the District should provide an updated estimate of the number of beneficiaries that will need to be relocated. DC provided the following update: September 2017 Update: DC has reached out several times to the provider, Crystal Springs, to advise them that DDS expects that the 5 people will move to settings that are or can be compliant with the HCBS Settings Rule. We have set a tentative deadline of November 2018 for the transitions and have discussed this with each person and their support team. Crystal Springs has their Provider Certification Review coming up in October, and this will be discussed again at that time.

### **Heightened Scrutiny – Settings that Isolate:**

The District should also clearly articulate how the final determination was/will be made on whether or not to proceed to move a setting to CMS for HS review. In other words what is the threshold and determining factors that bring the working group to a yes or no for moving the packet forward? DC Response: DC already provides a methodology for heightened scrutiny reviews for HCBS IDD settings in the STP. We state that "DDS plans to submit to CMS for

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback

heightened scrutiny review facility-based day habilitation or employment readiness settings which, at their next Provider Certification Review (PCR) (1) fail two of more of the designated HCBS Settings indicators; and (2) successfully complete their Corrective Action Plan, remediating any identified deficiencies.” DC added the following statement: “DC notes that this model does not involve a working group or discretion on behalf of the District. It is purely based on how a provider scores on their Provider Certification Review for HCBS Compliance and whether or not they are able to satisfactorily remediate any identified deficiencies.”

DC-EPD Response: The District added this language on pp. 26 & 56: “If, through its ongoing monitoring and tracking of implementation of individual remediation plans, DHCF EPD Waiver unit staff determines that a setting is isolating, as defined in Prong 3 of the rule, the staff will raise that setting for review by a working group. The determination will be made when a provider 1) cannot achieve compliance with any two or more criteria included in the monitoring tool, and 2) has otherwise fulfilled its individual remediation plan. The working group will consist of key DHCF staff including the EPD Waiver Program Manager, the LTC Administration Director, the Monitoring and Oversight Division Manager, and the Quality and Outcomes Division Specialist. This working group tracks quality measures and performance on a monthly basis. If the working group determines that no further technical assistance or support will assist the provider in meeting the requirements, the setting will be submitted to CMS for heightened scrutiny under Prong 3 of the rule.”

***Clustered Residential Apartment Complexes under IDD Waiver:*** On page 11, the District provided its rationale for why it was not moving forward in submitting two apartment complexes forward for heightened scrutiny, even though the District received input during a previous public comment process from stakeholders expressing concerns about these entities potentially clustering individuals with disabilities. In its rationale for not moving forward in submitting these to CMS for additional review under heightened scrutiny, the District stated, “DDS is aware of the density issue in these buildings and monitors any new people moving in to ensure that they are based upon the person’s choice, rather than provider convenience.” CMS reminds the District that choice alone is not a sufficient reason to support an HCBS beneficiary in a residential setting that is not compliant with the federal HCBS settings requirements. It also is not basis enough to avoid submitting a setting that may have the qualities of isolating HCBS beneficiaries for CMS review under heightened scrutiny. CMS reiterates its request to the District that it rephrase this portion of its STP (that incorrectly implies that because resident occupancy is based on individual choice rather than provider convenience and the buildings are in pleasant neighborhoods, the residential setting cannot be isolating or limit an individual’s ability to interact with the broader community), and to provide additional details supporting the state’s rationale for determining that these clustered apartments fully meet the federal HCBS requirement and do not possess characteristics that could potentially isolate HCBS participants from the broader community. DC revised this section as follows: “DC received recommendations via public comments that residential settings that are clustered should be considered for heightened scrutiny review. The commenter was referring to two (2) apartment complexes in the District. DDS is aware of the density issue in these buildings, likely caused

DC Statewide Transition Plan for HCBS Waiver Settings-Response to 8-22-17 CMS Feedback



because these buildings are affordably priced, located near metro, adjacent to other large apartments, and are in safe neighborhoods. DC has conducted site visits to all of these locations, interviewed 100% of the people who reside there, done observations, and is assured that the settings do not tend to isolate and either currently meet or will meet all facets of the HCBS Settings Rule by March 17, 2019. We will continue to monitor their compliance through a combination of Service Coordination Monitoring, Provider Certification Review, and Provider Performance Review.”

- ***Lisner-Louise-Dickson Hunt:*** The STP currently states “DHCF conducted a thorough review under the criteria for heightened scrutiny. Based upon this review, DHCF concluded that this residential setting meets the HCBS settings requirements. Please see the attached Lisner-Louise-Dickson-Hurt evidentiary package for documentation of how this facility meets the HCBS requirements.” Per our recent conversations, CMS requests that the District remove the draft evidentiary package on Lisner-Louise-Dickson-Hurt from the STP and explain within the STP that it is being removed because the District is not yet submitting Lisner-Louise-Dickson-Hunt to CMS for a heightened scrutiny review for the following reasons:
  - It has determined that the setting does not meet Prong 1 or 2 under what the rule establishes as being presumptively institutional, and is awaiting additional guidance anticipated from CMS on what settings should be included under Prong 3 of heightened scrutiny (ie. settings that isolate); and
  - The state is currently working with the provider to assure the setting currently meets all federal HCBS requirements around assuring access of HCBS beneficiaries to the broader community. Once any required remediation actions have been completed by the setting, the state will then determine based on updated guidance from CMS whether or not this setting or any other setting needs to be submitted to CMS for heightened scrutiny review under Prong 3.

The District revised the applicable paragraph on p. 25 to read as follows:

DC has one EPD residential setting the Lisner-Louise-Dickson-Hurt Home (LLDH), that is adjacent to an affiliated private nursing facility. As noted in the April 28, 2017 submission of the STP to CMS, , DHCF previously assessed that it meets the criteria for heightened scrutiny as a setting that is immediately adjacent to a public institution, under Prong 2 of the rule, establishing that it is presumptively institutional. In order to be sure that this facility complies with the HCBS settings rule and demonstrates HCBS characteristics, DHCF conducted a thorough review under the criteria for heightened scrutiny. Based upon this review, DHCF concluded that this residential setting meets the HCBS settings requirements. The criteria used and responses were submitted with the April 28, 2017 STP as an evidentiary package. With this submission, the District withdraws the evidentiary package and request for heightened scrutiny review for the following reasons:

- 1) DHCF has determined that LLDH does not meet Prong 1 or 2 under what the HCBS Settings rule establishes as being presumptively institutional, and is awaiting

additional guidance anticipated from CMS on what settings should be included under Prong 3 of heightened scrutiny, i.e. settings that isolate; and

2) DHCF is currently working with the provider to assure that LLDH meets all federal HCBS requirements around assuring access of HCBS beneficiaries to the broader community. Once any required remediation actions have been completed by LLDH, the District will then determine based on updated guidance from CMS whether or not this setting or any other setting needs to be submitted to CMS for heightened scrutiny review under Prong 3.