

North Carolina DHHS HCBS Final Rule Transition Plan
(42 CFR Section 441.301 (c) (4) (5) and Section 441.710(a) (1) (2)

North Carolina Vision

North Carolina supports serving individuals with disabilities in the least restrictive and most integrated settings possible, based on what is clinically appropriate as defined by the individual's person-centered planning process. Through the planning process, the Department believes that individuals with disabilities should have the opportunity to live in community settings that reflect community values and standards. These settings will vary depending upon individual's preferences and supports needed to live in the community.

Our planning process to ensure North Carolina's compliance with Centers for Medicare and Medicaid Services (CMS) Home and Community Based Standard rules will actively engage our beneficiary and provider stakeholders. We will create a plan that supports individuals through a person-centered process that builds upon our already existing system and supports providers to ensure compliance with rules. *

*Adopted July, 2014 by the North Carolina Secretary of the Department of Health and Human Services.

Purpose

In January 2014, the Centers for Medicaid and Medicare Services (CMS) published final Home and Community Based Services rules to ensure that individuals receiving long-term services and supports through (HCBS) programs under the 1915(c), 1925(i) and 1915(k) Medicaid waivers have full access to the benefit of community living and the opportunity to receive services in the most integrated setting appropriate. Furthermore, CMS denotes that the intent of this rule is to enhance the quality of HCBS and provide protections to participants. These rules were effective March 2014.

The purpose of North Carolina's preliminary transition plan, for wavier beneficiaries, is to ensure that individuals have full access to communities of their choosing. At a minimum, this choice will include real opportunities to seek employment and to work competitively within an integrated work force. As a result individuals will have opportunities to engage in life experiences within their own communities while improving personal outcomes. Our State's primary goal is to ensure full compliance with HCBS Final Rule.

Home and Community-Based Setting Requirements:

- The setting is integrated in and supports full access of individuals receiving Medicaid Home and Community-Based Services to the greater community;

- Included are opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources;
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid Home and Community-Based Services;
- The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting (with consideration being given to financial resources);
- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint;
- Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices;
- Facilitates individual choice regarding services and supports, and who provides them;

Provider Owned or Controlled Residential Setting – Additional Requirements:

- Provides, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law for the State, county, city or other designated entity;
- Provides privacy in sleeping or living unit;
- Provides freedom and support to control individual schedules and activities and to have access to food at any time;
- Allows visitors of choosing at any time;
- Is physically accessible;
- Requires any modification (of the additional conditions), under 42 CFR 441.301(c) (4) (VI) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.

North Carolina DHHS Statement of Progress and On-going Plan of Action

Outreach, Engagement, and Public Notice/Comment (October 1, 2014 – March 17, 2018):

To ensure consistent, clear, streamlined communication with waiver beneficiaries, families, provider organizations and associations, as well as other interested stakeholders, the North Carolina Department of Health and Human Services (DHHS) established a dedicated web portal, and posted information on its website. This source provides information and links focused solely on the implementation of HCBS Final Rule (March 17, 2014) including the rule, the self-assessment and review process, deadlines for compliance, and availability of technical assistance. It will be updated with additional information as it is available, inclusive of any significant changes to the plan following the 30 day public comment period. Other communication will include webinars, meetings, a "person first" version of the transition plan, and Power Point presentations.

Conversations about the HCBS Final Rule began in Spring 2014 and generated valued stakeholder input. The HCBS Stakeholder Committee formed by Medicaid beneficiaries and their family members, as well as providers, provider associations, and representatives from DHHS worked closely together to

advocated and implement a shared approach for crafting North Carolina's Statewide Transition Plan. The Committee's composition is as follows:

STAKEHOLDERS

Anna Cunningham
Jean Anderson
Kelly Beauchamp
Kelly Mellage
Sam Miller
Yukiko Puram
Johnathan Ellis
State Consumer Family Advisory Committee (SCFAC)
ABC Human Services (Provider)
Developmental Disabilities Consortium
Enrichment Arc (Provider)
Monarch (Provider)
Easterseals UCP (Provider)
North Carolina Housing Finance Agency
SembraCare (Home Care Software Company)
Disability Rights of North Carolina
Arc of North Carolina

PROVIDER ORGANIZATIONS

NC Provider Council
Benchmarks
North Carolina Adult Day Services Association
The Provider Council
North Carolina Developmental Disabilities Facilities Association

LME-MCOs

East Carolina Behavioral Health
Cardinal Innovations
Smoky Mountain Center
CoastalCare

Local Lead Agencies (Case Management Entities)

RHA Howell
Home Care of Wilson Medical Center
Resources for Seniors

STATE GOVERNMENT

Division of Medical Assistance
Division of Mental Health/Developmental Disabilities/Substance Abuse Services
Division of Health Service Regulation
NC Council on Developmental Disabilities

In addition DHHS established a team of personnel to work in collaboration with the Stakeholder Committee to ensure North Carolina’s primary full compliance with the HCBS Final Rule (March 17, 2014). North Carolina also engaged and continues to receive technical assistance from the National Association of State Directors of Developmental Disabilities (NASDDDS) a subject matter expert on best practices that align with HCBS setting requirements.

The initial draft plan and the proposed self-assessment were developed in conjunction with the Stakeholder Committee between October, 2014 and January, 2015. The transition plan and proposed self-assessment was posted for 30 day public comment on January 21, 2015. Notice of the public comment period was announced through the dedicated Department website, LME-MCO/Local Lead Agency (Case Management Entity) collaboratives, provider organizations and the broader stakeholder community. The public comment period proved interactive working opportunities for all vested partners.

Another primary purpose of releasing the plan for comment was to ensure that all stakeholders were fully informed of DHHS’s plan for meeting the HCBS Final Rule (effective March 17, 2014). Public comments, as received through email, written correspondence, fax, testimony and through the six listening sessions, were judiciously analyzed and the plan was finalized with appropriate revisions made to the initial draft plan in early March 2015. The final plan, as submitted, is currently posted to the North Carolina DHHS website:

During the public comment period, six listening sessions were held to share information regarding the HCBS Final Rule (March 17, 2014), the proposed transition plan and self-assessment, and to obtain feedback from a broader stakeholder base. These sessions were held in the following locations from February 1 through February 15, 2015. Special consideration was given to determining the specific locales, for each of the sessions, to ensure the best possible access for individuals supported through the HCBS waiver.

Location	Number in Attendance

Common themes from public comment and listening sessions included the following:

Concern/Suggestion	Frequency

DHHS, in conjunction with the LME-MCOs/Local Lead Agencies (Case Management Entities) will continue to solicit feedback to ensure on going waiver compliance, to identify barriers, and to highlight areas of success in preparation for submission of future waiver amendments and/or comprehensive plan. This will occur through multiple frameworks, and feedback will have “no wrong door”.

State Self-Assessment and Remediation (November 25, 2014 - March 16, 2018):

The HCBS Final Rule for Home and Community Based Services will apply to three 1915(c) waivers operated by the State of North Carolina. The waivers and the services that this rule will impact are:

- NC Innovations: Residential Supports, Day Supports, and Supported Employment
- CAP/DA waiver: Adult Day Health
- CAP/C waiver – Currently services are not affected by this rule as they are home based.

The State conducted a comprehensive inventory of services, and reviewed the current LME-MCO/Local Lead Agency (Case Management Entity) contract/agreement to determine if there were any changes/modifications warranted for ensuring transition plan compliance.

The State is strategically vetting the current State system processes and regulations that could impact or be impacted by the implementation of the transition plan. This includes a comprehensive, in depth cross walk of State statutes, existing administrative code, rules, waiver service definitions, provider qualifications and licensing, as well as rate structures to identify areas where changes will be needed to ensure initial and on-going compliance with the CMS HCBS Final Rule (March 17, 2014). Although an integral component of the current waiver, review of the person centered planning and thinking processes are occurring concurrently. In addition, specific timelines and benchmarks for achieving and ensuring full compliance with the rule will occur as a fluid component of this process.

The State, through the Division of Medical Assistance (DMA) will update existing waiver policy to include the HCBS standards as well as the process for ensuring these standards are maintained. The policy will be promulgated through the regular DMA policy process. The changes will be added to the next technical amendment to the waiver and submitted to CMS through the waiver portal.

The State, through the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, will review, revise and adopt policy relative to its vision, outcome measures, and core indicators to ensure full compliance with the rule. Any change in current policy will occur through the established Departmental process.

The State collaborated with stakeholders to develop a self-assessment tool and companion guide for providers to evaluate compliance with HCBS Final Rule. The assessment includes identification of the type of setting and service provided, evidence supporting compliance with HCBS standards, and proposed remediation for standards that are found to be out of compliance.

The State will conduct a pilot of the self-assessment with identified providers to ensure that it captures all of the required waiver elements and is universally understood by families, provider networks, LME-MCOs/Local Lead Agencies (Case Management Entities), DHHS staff, and most importantly individuals who receive waiver supports. The State will make modifications to the tool as indicated by the findings of the pilot group to ensure the tool's conformity to and compliance with HCBS Final Rule. Once the tool has been tested, it will be utilized statewide. Providers will submit completed self-assessments to their assigned LME-MCO/Local Lead Agency (Case Management Entity).

The LME-MCO/Local Lead Agency (Case Management Entity) Quality Management Teams/designated staff will compile the self-assessment data to determine those providers who meet or do not meet the rule requirements. They will also establish the process to ensure that there is continuity of care without interruption of service for those individuals who may reside or receive services from providers who cannot meet the requirements. LME-MCOs/Local Lead Agencies (Case Management Entities) will also determine those providers who could meet the standards with technical assistance. Each LME-MCO/Local Lead Agency (Case Management Entity) will submit its analysis to DHHS.

The State, in partnership with the LME-MCOs/Local Lead Agency (Case Management Entity), will establish a Monitoring Review Process to validate a representative sample of Provider Self-Assessments. This review will ensure overall integrity of the self-assessment process. LME-MCO Care Coordination/Quality Management Departments, Local Lead Agency (Case Management Entities) designees and DHHS/DMA/DMHDDSAS Accountability and Quality Management Sections will validate a State determined percentage of provider self-assessments for validity (initial assessment data in comparison to validation data). Concurrent with the validation process of the representative sample, consideration/assessment will occur specific to the need for an individual assessment. If determined necessary, a tool will be developed and it would be utilized concurrently during the person-centered planning process.

LME-MCO/Local Lead Agency (Case Management Entity) Self-Assessment and Remediation (February 1, 2015 - September 30, 2015):

The LME-MCO/Local Lead Agency (Case Management Entity) will review all policies, procedures and practices, training requirements, contracts, billing practices, person-centered planning requirements and documentation, and information systems to determine their compliance with the HCBS Settings Rule. Each LME-MCO/Local Lead Agency (Case Management Entity) will be required to submit its assessment along with evidence of compliance to the State. Each LME-MCO/Local Lead Agency (Case Management Entity) will be required to identify any modifications needed to achieve compliance with the rule. The State will review each LME-MCO's/Local Lead Agency's (Case Management Entity's) assessment and evidence of compliance to ensure that all aspects of the system are aligned with CMS expectation. Any changes needed to achieve compliance will be incorporated in an amendment to the Transition Plan, including a specific timeline and identified milestones.

All revisions to systems/operations and materials needed to achieve compliance will be submitted to the State for review and approval. Upon approval, final versions will be completed and distributed to providers. Provider education/training will be conducted as appropriate. All education and training materials will be developed or approved by the State.

Provider Self-Assessment and Remediation (March 17, 2015 - March 16, 2018):

The State will conduct statewide provider education and training sessions on completion of the self-assessment. These training sessions will be via webinar and conference call and will be held between March 17, 2015 and May 31, 2015. Providers will receive the self-assessment tool, companion guide, instructions and timelines. Individuals served, family members, advocates, and other stakeholders must be an integral part of this assessment process.

Self-assessments will be submitted, along with the evidence of compliance, to the assigned LME-MCO/Local Lead Agency (Case Management Entity). Additional evidence may be requested or subsequent reviews conducted, as needed, to further assess and validate compliance with these rules.

Providers who self-report or are determined to be non-compliant by the responsible LME-MCO/Local Lead Agency (Case Management Entity) will be required to submit a plan of action to achieve conformity with the rule and must include identified time lines. Any setting that is presumed to have the characteristics of an institutional environment will be subject to heightened scrutiny. Every provider's transition plan will be comprehensively reviewed by the LME-MCO/Local Lead Agency (Case Management Entity) and will be monitored based on approved timeframes with oversight by the State.

Providers requiring technical guidance on how to achieve compliance may request assistance from the State, LME-MCO/Local Lead Agency (Case Management Entity) or another provider (of the same service type to ensure service continuity) that is in full compliance with the rule.

Providers who, following review, are deemed unable or unwilling to comply with the HCBS Final Rule (effective March 17, 2014) will be mandated to fully cooperate with guidance as provided by LME-MCOs/Local Lead Agencies (Case Management Entities) and State officials to:

- 1) Facilitate the seamless transition of individuals supported to an appropriate provider of "like" service to ensure there is no service interruption, or
- 2) Create and implement a plan detailing how individuals who utilize the provider's services at a specific location will be transitioned to a more integrated setting within their service capacity if this is the choice of the individual.

The State, in conjunction with the LME-MCOs/Local Lead Agencies (Case Management Entities) will oversee all necessary transition processes. A minimum of 60 days' notice will be provided to all individuals required to transition to another provider. More notice may be granted in instances when residential services are being secured. To ensure continuity of care and as little disruption to an individual's life as realistically possible, each person will receive a detailed description/notice of the process and a comprehensive listing of providers to consider for continuation of services. The assigned LME-MCO Care Coordinator or Local Lead Agency staff (Case Manager) will schedule a face-to-face visit (with subsequent visits occurring based on the specific needs of the individual) as soon as possible to

discuss the transition process and ensure the individual fully understands any applicable due process rights.

Initial Compliance and Update to Transition Plan:

No later than January 1, 2016, upon completion of provider network self-assessment surveys and in conjunction with the validation of the sample of assessments, the State will submit an amendment to this transition plan with specific remediation activities and milestones for achieving compliance with the HCBS Rule. Upon approval of the amendment by CMS, the State will submit Technical Amendments to its waivers to include the full transition plan.

For providers needing compliance assistance, the State proposes the following strategies from July 1, 2015 through June 30, 2018:

- Facilitate focus groups for providers that are both in and out of compliance with the Rule to ensure there is a peer support, problem solving process.
- Provide technical assistance through the development and scheduling of training regarding waiver compliance, changes and overall effect on individualized services.

Ongoing Compliance:

Once overall compliance has been achieved, ongoing compliance will be ensured through:

- On-going solicitation of feedback from individuals supported through the waiver, providers, provider organizations, and LME-MCOs/Local Lead Agencies (Case Management Entities);
- Annual consumer satisfaction surveys;
- On-going review of contracts with LME-MCOs/Local Lead Agencies (Case Management Entities) to ensure on-going compliance with standards;
- Specified quality assurance/improvement measures that ensure compliance with HCBS Final Rule (effective March 17, 2014);
- If determined necessary, implement an Individual Life Experience Assessment through the Person Centered Planning Process;
- Continuation of Collaborative Monitoring Review Process between the LME-MCOs/Local Lead Agencies (Case Management Entities) and the State;
- Consideration, in conjunction with LME-MCOs/Local Lead Agencies (Case Management Entities) and the broader Stakeholder community, of the creation of a public service announcement to promote the integration of individuals with intellectual and developmental disabilities within their communities;
- Continued partnership with the HCBS Stakeholder Committee.

Conclusion:

North Carolinians who receive Medicaid waiver services and supports must have all the same benefits of living in a community as others do. We, the State of North Carolina, see a new future for Medicaid waiver beneficiaries involving improved community access and quality of life. We will work with those who use home and community based services, their families, allies and others to become the change. Together, we will make this vision real.