



**ARKANSAS DEPARTMENT OF
HUMAN SERVICES**

HOME AND
COMMUNITY-BASED
SERVICES (HCBS)
STATEWIDE SETTINGS
TRANSITION PLAN

SUMMARY

On March 17, 2014, the Center for Medicare and Medicaid Services (CMS) issued a final rule for home and community-based services that requires states to review and evaluate current Home and Community-Based Services (HCBS) settings, including residential and nonresidential settings. States are required to analyze all HCBS settings where HCBS participants receive services, determine if the current settings comply with the final rule, and demonstrate how compliance will be achieved for those settings that do not meet the HCBS settings requirements. Settings that are HCBS compliant must be integrated in and support full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.

OVERVIEW

The final rule requires that all home and community-based settings have the following qualities:

- The setting is integrated in and supports full access to the greater community;
- The setting is selected by the individual from among setting options;
- The setting ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- The setting optimizes autonomy and independence in making life choices; and
- The setting facilitates choice regarding services and who provides them.

In addition, the final rule also includes provisions for provider-owned or controlled home and community-based residential settings. The requirements include:

- The individual has a lease or other legally enforceable agreement providing similar protections;
- The individual has privacy in their unit including lockable doors, choice of roommate and freedom to furnish or decorate the unit;
- The individual controls his/her own schedule;
- The individual can have visitors at any time; and
- The setting is physically accessible.

Modifications to these requirements for provider-owned or controlled home and community-based settings must be supported by a specific assessed need and justified in the person-centered service plan.

The final rule also specifies that certain settings are not considered home and community-based. These excluded settings include nursing facilities, institutions for mental disease, intermediate care facilities for people with intellectual disabilities, and hospitals.

The final rule identifies other settings that are presumed to have qualities of an institution. These settings include those in a publicly or privately owned facility that provide inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community. CMS will presume these settings not to be community-based unless CMS determines through a process of “heightened scrutiny” that the setting is community-based and does not have the qualities of an institution.

STATE ASSURANCES

The State assures full and on-going compliance with the HCBS setting requirements at 42 CFR Section 441.301(c) (4) (5) and Section 441.710(a) (1) (2) and public input requirements at 42 CFR 441.301(6) (B) (iii) and 42 CFR 441.710(3) (iii) within the specified timeframes for the identified actions and deliverables. While the State is already compliant with some of the requirements, the State will reach full compliance by implementing a statewide transition plan as described below.

The State ensures that, as the standards and the plan for transition are developed, the public has an opportunity for input. The State will consider those comments and make revisions to the plan, as appropriate, before the plan is considered final.

PUBLIC COMMENT

Website

The statewide transition plan, including the timeline and narrative, was available for public review and comment March 22, 2015 through April 20, 2015. The statewide transition plan was posted online at <https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>. This was the URL throughout the 30-day public comment period. The state assures that the link provided to the public directed individuals to the STP during the public comment period. All components of the STP – narrative, timeline chart, and public comments and responses – were made available to the public through a functional URL. The URL was functional until Sunday, June 14, 2015 when it changed to <http://www.medicaid.state.ar.us/general/comment/comment.aspx>. The Medicaid website page with hyperlinks remained consistent throughout and provided the appropriate hyperlinks to the documents at all times.

Public Notice

A notice referencing the statewide transition plan was published in the statewide newspaper, *Arkansas Democrat-Gazette*, on March 22, 2015. The entire STP was not published in the newspaper; however, the notice stated: “The Statewide Transition Plan is available for review at the Division of Medical Services (DMS), 2nd floor Donaghey Plaza South, 700 South Main Street, P.O. Box 1437, S-295, Little Rock, Arkansas 72203-1437, by telephoning 501-320-6429 or can be downloaded at <https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>.” The state provided instructions via the public notice, during the public hearing, and on the website with regard to how comments could be submitted. The public notice stated: “Comments may be provided during the 30-day comment period, (March 22, 2015-April 20, 2015), during the public hearing, in writing to DMS at the address indicated above or by email to becky.murphy@dhs.arkansas.gov. All comments must be submitted by no later than midnight April 20, 2015.”

Arkansas Democrat Gazette

SUNDAY, MARCH 22, 2015

Public Notice

The Arkansas Department of Human Services (DHS), Division of Medical Services (DMS), is providing public notice of its intent to submit to the Centers of Medicare and Medicaid Services (CMS) a Statewide Home and Community Based Services (HCBS) Settings Transition Plan.

The Arkansas Statewide HCBS Settings Transition Plan outlines the DHS plan for achieving compliance with the federal HCBS settings regulations at 42 CFR Section 441.301(c) (4) (5) and Section 441.710(a) (1) (2).

The Statewide Transition Plan is available for review at the Division of Medical Services (DMS), 2nd floor Donaghey Plaza South, 700 South Main Street, P. O. Box 1437, S-295, Little Rock, Arkansas 72203-1437, by telephoning 501-320-6429 or can be downloaded at <https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>. Comments may be provided during the

30-day comment period, (March 22, 2015 – April 20, 2015), during the public hearing, in writing to DMS at the address indicated above or by e-mail to becky.murphy@dhs.arkansas.gov. All comments must be submitted by no later than midnight April 20, 2015.

Public Hearing:

April 6, 2015 from 1:30 p.m. – 3:00 p.m. Donaghey Plaza South Building Conference Rooms A & B, 700 South Main Street in Little Rock, Arkansas. Check-in with the security desk in the lobby of the Donaghey Plaza South Building and present some form of picture identification.

If you need this material in a different format, such as large print, call 501-320-6429.

Dawn Stehle
Director
Division of Medical Services
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Public Hearing

In addition, the State held a public hearing on April 6, 2015 to receive comments. The public notice published in the statewide newspaper on March 22, 2015, stated: “Public Hearing: April 6, 2015 from 1:30 pm – 3:00 pm Donaghey Plaza South Building Conference Rooms A & B, 700 South Main Street in Little Rock, Arkansas... If you need this material in a different format, such as large print, call 501-320-6429.”

Print Format

The STP was made available to the public in printed format to be picked up in person at the state DHS office, in printed format during the public hearing, mailed, emailed, and posted on the state Medicaid website. It was also distributed and discussed during several follow up meetings and teleconferences. Participants of the various meetings included key stakeholders, family members, and advocacy representatives from around the state.

Communication/Stakeholder Input

After the 30-day public comment period, a summary of the public comments and the state's responses to the public comments were posted for the public to review on the state's Medicaid website. They were also sent to each commenter [see AR HCBS STP–Summary of Public Comments and State Responses(12-15-2015)].

The State reviewed and considered all comments received; summarized all comments, including those which agree or disagree with the state's determination about compliance with the settings requirements; and made changes, as appropriate, to the current statewide transition plan.

WAIVERS

Regulatory requirements for Home and Community-Based Settings for 1915(c) home and community-based waivers, 1915(i) State plan home and community-based services, and 1915 (k) State plan home and community-based settings must have all of the qualities defined at §441.301(c) (4) and §441.710 respectively, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan. In Arkansas, these regulations apply to five waivers. Three of the waivers are operated by Division of Aging and Adult Services (DAAS); one is operated by Division of Developmental Disabilities Services (DDS); and one is operated by University of Arkansas - Partners for Inclusive Communities.

1915(c) Waivers impacted by the HCBS Settings Rule include:

AR.0195	DAAS - ElderChoices Waiver
AR.0312	DAAS - Living Choices Assisted Living (LCAL) Waiver
AR.0400	DAAS - Adults with Physical Disabilities (APD) Waiver
AR.0188	DDS - Alternative Community Services (ACS) Waiver
AR.0396	Partners for Inclusive Communities - Autism Waiver

Types of residential/non-residential settings potentially at risk:

- Assisted Living Facilities – Residential settings
- Group Homes – Residential settings
- Adult Day Care Facilities - nonresidential settings 42 CFR 441.301(c)(4)(i)-(v)
- Adult Day Health Care Facilities - Nonresidential settings 42 CFR 441.301(c)(4)(i)-(v)
- Adult Family Home – Residential setting
- Day Settings (Licensed provider of center-based community services at the clinic site)
- Certified provider of attendant services and support (at clinic site only)

DIVISION OF AGING AND ADULT SERVICES

The Division of Aging and Adult Services (DAAS) is the operating agency for three 1915(c) waivers impacted by the HCBS Settings Rule. These include:

- ElderChoices (EC)
- Alternatives for Adults with Physical Disabilities (AAPD)
- Living Choices Assisted Living (LCAL)

During the transition period, DAAS plans to merge EC and AAPD through a renewal and to change the waiver name to ARChoices in Homecare.

Most waiver participants in EC and AAPD, and subsequently ARChoices, reside in a private home in the community and receive HCBS services in their home. The home may be the participant's, a family member's or a friend's. It is expected that waiver participants who live in their own home or the home of a family member or friend receive services in a home that meets the setting requirements found at 42 CFR 441.301(c)(4).

DAAS Registered Nurses who complete the assessment and develop the person-centered plan, and Case Managers who monitor services in the home will be trained in the settings rule. DAAS Registered Nurses and Case Managers have always monitored--and will continue to monitor--the participant's home environment and services provided in the home to ensure the participant's human rights are not violated. If it is discovered that a participant's rights are compromised, the DAAS Registered Nurses and/or Care Coordinator will work with the client and, when appropriate, include the family or friend to resolve the issue, involving Adult Protective Services personnel, when necessary.

Description of State Assessment of Current Level of Compliance

Review of State Policies and Procedures

In the first half of 2015, DAAS staff identified policies, provider manuals and certification requirement changes needed to comply with setting regulations. HCBS settings policy was integrated into the ARChoices provider manual to be effective January 1, 2016. This manual went through public comment from August 3, 2015 through September 1, 2015, as part of promulgation. The ARChoices provider manual governs Adult Day and Adult Day Health Centers and Adult Family Homes. Also, the Living Choices Assisted Living provider manual is in the process of being promulgated with an effective date of February or March of 2016, depending on when the waiver renewal is complete. HCBS settings policy has been incorporated into this manual. The public comment period for this change was October 23, 2015 through November 21, 2015. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules. This should be complete in the first half of 2016.

Assessment of Provider Compliance with Residential and Non-Residential Settings Requirements

An inter-agency HCBS Settings working group has met regularly since 2014 and will continue to meet during the implementation of the statewide transition plan. The working group consists of representatives from the Division of Aging and Adult Services, Division of Developmental Disabilities, and the Division of Medical Services within the Arkansas Department of Human Services. The working group initially met to review the new regulations and develop the initial statewide transition plan and corresponding timeline. The group has met with external stakeholders to discuss the new regulations. These stakeholders include:

assisted living providers, aging providers, intellectual and developmental disability providers, advocates, consumers, and associations representing the aforementioned groups.

The group continues to meet to discuss assessment activities, including provider self-assessment surveys, site visits, and ongoing compliance with the HCBS Settings rule. A small subcommittee of this inter-agency HCBS Settings group will review the provider self-assessment surveys, develop an on-site assessment tool to validate provider self-assessments, and analyze compliance over the coming months.

DAAS has required Adult Family Homes (AFH), Adult Day Cares (ADC), Adult Day Health Care Centers (ADHC) and Level II Assisted Living Facilities (ALF) to conduct a provider self-assessment and provide the results to DAAS. DAAS will use the information from the provider self-assessments to determine what qualities of home and community-based settings exist in the current setting and to inform the development of standards which will facilitate the transition of settings which may not fully meet HCBS characteristics to those which include all the necessary characteristics and traits of a fully compliant HCBS setting.

Adult Family Homes currently meet the HCBS settings requirements. Since AFHs can have no more than three unrelated residents, these homes do not have to be licensed in the state of Arkansas. There are only five certified AFHs in the state at this time, and there is only one waiver client residing in an AFH. All but one current resident pays as private pay or through the Veteran's Administration. If a new AFH chooses to open and includes waiver recipients, the AFH would be required to be certified by DAAS. This includes meeting all HCBS requirements.

DAAS has identified three types of settings that are at risk for not meeting the full extent of the regulations either because the service is provided outside the participant's private residence or because the participant resides in and receives services in a home owned by the provider. These settings are:

- Adult Day Care
- Adult Day Health Care
- Level II Assisted Living Facility

DAAS is proposing to achieve and maintain full compliance with HCBS settings requirements as indicated by this statewide transition plan. A transition plan chart is attached which outlines the process and timeline which DAAS and stakeholders will follow to identify and assess providers, remediate any areas of non-compliance, conduct outreach, and engage providers and other stakeholders [see AR HCBS STP–Timeline Chart (12-15-2015)].

Provider self-assessment

DAAS staff developed the residential provider self-assessment survey using the “exploratory questions” provided by CMS. Residential providers include Level II Assisted Living Facilities (ALF). Residential provider self-assessment surveys were distributed via mail. Non-responders were contacted via phone and email to encourage completion of the survey which resulted in a response rate of 82% (n=37). Follow-up phone calls and emails ensued to clarify residential provider responses (as needed). This survey will serve as a baseline “snapshot” of the residential provider’s existing self-assessed compliance with the HCBS Settings rule. Results are currently being analyzed. Survey responses need to be validated through on-site visits. Residential providers that failed to respond to the self-assessment survey will receive a site visit as part of the validation process.

DAAS staff also developed a non-residential provider self-assessment survey using the “exploratory questions” provided by CMS. Non-residential providers include Adult Day Centers and Adult Day Health

Centers. Non-residential provider self-assessment surveys were distributed via mail. Non-responders were contacted via phone to encourage completion of the survey which resulted in a response rate of 77% (n=24). Follow-up phone calls ensued to clarify non-residential provider responses (as needed). This survey will serve as a baseline “snapshot” of the non-residential provider’s existing self-assessed compliance with the HCBS Settings rule. Results are currently being analyzed. Survey responses need to be validated through on-site visits. Non-residential providers that failed to respond to the self-assessment survey will receive a site visit as part of the validation process.

The inter-agency HCBS Settings working group will provide tailored technical assistance to providers based on the results of the provider self-assessment survey analysis. DHS expects this dialogue to be ongoing throughout the assessment process.

Validation of self-assessment (site visits)

An inter-agency site review subcommittee of the HCBS Settings workgroup is currently working on analyzing the residential and non-residential self-assessment survey responses and developing an on-site assessment tool to validate the provider self-assessments. Separate assessment tools will be developed for residential and non-residential settings. The subcommittee expects the on-site assessment to include: 1) documented observation of the setting, 2) interviews with residents/clients of the setting, 3) interviews with staff, and 4) a review of supporting documents provided by the provider including, but not limited to, staff manuals, resident handbooks, and individual person-centered service plans. This tool will be reviewed by external stakeholders prior to field implementation.

Staff employed by the Division of Aging and Adult Services, Division of Developmental Disabilities Services, and the Division of Medical Services will be identified and assigned to an inter-agency site visit team. These employees, along with members of the site review subcommittee, will be trained in appropriate qualitative methods including direct observation, qualitative interviewing, and record review prior to conducting site visits as well as during the site visit process (as needed). Current members of the site review subcommittee are trained in qualitative research methods and a “train the trainer” model will be utilized. Quality control checks will be implemented throughout the site visit process. Quality control checks will consist of a member of the site review subcommittee pairing up with a member of the site review team to review the site visit documentation and may include the site review subcommittee member accompanying the site review team member on an actual site visit. This process will occur on an as needed basis.

Residential and non-residential providers that failed to respond to the provider self-assessment survey will receive a site visit as part of the validation process. In addition, residential and non-residential providers with questionable practices identified in the provider self-assessment survey will also receive a site visit as part of the validation process. A statistically valid sample of residential and non-residential providers with practices deemed HCBS in nature based on the provider self-assessment survey will receive a site visit as part of the validation process. DAAS expects to complete the residential site visits by July 2016 and the non-residential site visits by September 2016 [see AR HCBS STP-Timeline Chart (12-15-2015)].

Prior to the site visit, residential and non-residential providers will receive a letter from DHS announcing the broad timeframe and process for the upcoming site visits. Although site visits will occur within a specified (broad) time frame, the site visits will intentionally be unannounced on the day of the visit.

Upon completion of the initial site visits and review of supporting documents provided by the provider, notes from the site review team member will be summarized in a standardized report. A cover letter and the corresponding report will be mailed to each provider that received a site visit. The letter will summarize the visit, note deficiencies observed and documented, request clarification of provider policies

and procedures and/or a corrective action plan, and provide a deadline with which to comply with the requested action(s). DHS will provide technical assistance to providers throughout this time period.

As corrective action plans and/or updated provider policies and procedures are submitted, DHS staff will review these materials and respond via letter to the provider. Follow-up site visits may occur as a result of this back and forth process with providers to ensure that corrective actions are implemented in the setting. If a second site visit occurs, the provider will receive a second standardized report and letter summarizing the visit. This letter will include directions for any further action(s) on behalf of the provider.

DHS will compile a list of providers that document, through provider self-assessment and/or validation via site visit(s), compliance with the regulations for HCBS settings. DHS will also compile a list of providers that document apparent non-compliance with the regulations for HCBS settings. Finally, DHS will compile a list of providers that require heightened scrutiny by CMS. These lists will be shared with external stakeholders.

DHS will submit a subsequent version of the STP to CMS that summarizes the provider self-assessment findings, the on-site assessment findings, along with the number of facilities that appear to be compliant, the number of facilities that appear to be non-compliant, and which settings are being submitted for heightened scrutiny. This updated STP will also be shared with external stakeholders and posted for public comment.

Ongoing Assessment of Settings

Licensed and certified settings are subject to periodic compliance site-visits by DAAS. HCBS settings requirements will be enforced during those visits. Settings found to have deficiencies are required to implement corrective actions and can lose their license or certification when noncompliance continues or is egregious. New providers will also be subject to an assessment of compliance with the HCBS settings requirements prior to licensure and certification.

Remediation

The HCBS Settings working group will develop and conduct provider trainings as well as provide tailored technical assistance to non-compliant providers. Technical assistance will be tailored to the specific needs of the provider based on the analysis of the provider self-assessment and the on-site assessment. The HCBS Settings working group will also host education sessions for advocates, consumers, and families as well as distribute education materials during these sessions. The education materials will also be available online. The HCBS site review subcommittee along with the HCBS Settings working group will monitor provider compliance efforts through corrective action plans and follow-up site visits. Site visits will be conducted with all providers submitting corrective action plans to ensure that providers are implementing the corrective actions. If the HCBS site review subcommittee and the HCBS Settings working group do not feel that a provider is progressing towards compliance, the state will need to implement relocation strategies. The HCBS Settings working group will be developing a relocation plan in the coming months as we work through the on-site assessment process. The relocation remediation strategy will include a detailed relocation plan that provides reasonable notice and due process for residents. The relocation plan will also include a timeframe, a description of the state's process to ensure sufficient services and supports are in place prior to the transition, and assurances that affected residents will receive sufficient information, opportunity, and supports to make an informed choice regarding transition to a new compliant setting.

Heightened Scrutiny

DAAS recognizes that certain settings are presumed not to be home and community-based and instead have institutional qualities - settings in a publicly or privately owned facility that provides inpatient treatment, settings that are located on the grounds of, or immediately adjacent to, a public institution, or those settings that have the effect of isolating individuals from the broader community. Following the provider self-assessment and on-site assessment(s), settings that meet any of the above criteria will be published in a public notice in the statewide newspaper, *Arkansas Democrat-Gazette*, to allow for public comment. The public notice will list the affected settings by name and location, and will identify the number of individuals served at each setting. The public notice will include all justifications as to how and why the setting meets HCBS requirements and will specifically note that the public has an opportunity to comment on the state's evidence. The state will provide responses to these public comments in a subsequent version of the STP.

In cases where DAAS asks for heightened scrutiny by CMS for certain settings, the inter-agency HCBS Settings working group will provide CMS with documentation (including site visit reports, site-specific assessment tools/results, information received during public comment period, information from external stakeholders, etc.) in an effort to demonstrate that the setting does not have the qualities of an institution and that it does have the qualities of a home and community-based setting. The HCBS Settings working group will engage in ongoing dialogue with CMS during the heightened scrutiny process.

If relocation of residents becomes necessary, the HCBS Settings working group will follow the relocation remediation strategy outlined in the previous section.

DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

The Division of Developmental Disabilities Services (DDS) is the operating agency for one 1915(c) waiver impacted by the HCBS Settings Rule: AR.0188 DDS - Alternative Community Services (ACS) Waiver. The purpose of this waiver is to support individuals of all ages who have a developmental disability and choose to receive services within their community. . The person-centered service plan offers an array of services that allow flexibility and choice for the participant. Services are provided in the person's home and community.

Individuals served by the ACS Waiver can choose to reside in a private home in the community and receive HCBS services in their home. The home may be the person's home, or the home of a family member or friend. The remainder live in either a group home, a provider owned or controlled apartment, or in the home of a staff person who is employed by the HCBS provider. It is expected that people who live in their own home or the home of a family member or friend who is not paid staff receive services in a setting that complies with requirements found at 42 CFR 441.301(c)(4).

DDS staff offers each person a choice of both case management and direct service providers. The chosen case management provider assesses the person's needs and wants and facilitates the development of the person-centered plan, which is approved by DDS staff. DDS ACS Waiver staff will monitor services through random home visits (minimum 10% per staff caseload). In addition, as part of the DDS certification process, DDS Licensure and Certification staff monitors services in the person's home. DDS ACS Waiver staff and DDS Licensure and Certification staff have been trained on the CMS Final Rule.

DDS is proposing to achieve and maintain full compliance with HCBS requirements, as indicated by this statewide transition plan. A transition plan chart is attached which outlines the processes and timeline which DDS and stakeholders will follow to identify and assess at-risk providers, remediate any areas of

non-compliance, and conduct outreach to engage providers and other stakeholders [see AR HCBS STP–Timeline Chart (12-15-2015)].

Description of State Assessment of Current Level of Compliance

Review of State Policies and Procedures

DDS has revised its HCBS Standards to include the characteristics of Settings which will guide DDS providers as they transition provider settings to those which fully include all the necessary characteristics and traits of a fully compliant HCBS setting. New providers are expected to be compliant with the Final Rule at the time of application. The HCBS Standards are awaiting promulgation.

Assessment of Provider Compliance with Residential and Non-Residential Settings Requirements

The same inter-agency HCBS Settings working group mentioned in a previous section has met and will continue to meet during the implementation of the statewide transition plan. The group discusses assessment activities, including provider self-assessment surveys, site visits, and ongoing compliance with the HCBS Settings rule. A small, site review subcommittee of this inter-agency HCBS Settings working group will review the provider self-assessment surveys, develop an on-site assessment tool to validate provider self-assessments, and analyze compliance over the coming months.

Provider self-assessment

DDS is conducting the assessment process outlined in CMS guidance. DDS is analyzing both its residential and day service systems. Residential providers include Group Homes, Apartments, and provider staff homes in which consumers live. Each residential provider has completed and returned a self-study to DDS. The self-study is based on the "Exploratory Questions" document included in the toolkit developed by CMS. It will serve as a baseline “snapshot” of the residential provider’s existing self-assessed compliance with the HCBS Settings rule. All DDS providers participated in the self-assessment process. Survey responses are being validated through on-site visits.

DDS also developed a non-residential provider self-assessment survey using the “exploratory questions” provided by CMS. Non-residential provider self-assessment surveys will be distributed in July 2017 [see AR HCBS STP–Timeline Chart (12-15-2015)].

The inter-agency HCBS Settings working group will provide tailored technical assistance to providers based on the results of the provider self-assessment survey analysis. DHS expects this dialogue to be ongoing throughout the assessment process.

Validation of self-assessment (site visits)

As stated in a previous section, staff employed by the Division of Aging and Adult Services, Division of Developmental Disabilities Services, and the Division of Medical Services will be identified and assigned to an inter-agency site visit team. The aforementioned processes will be the same for the Division of Developmental Disabilities Services.

Most DDS providers received site visits. DDS Certification staff conducted an on-site visit to each group home and provider owned or controlled apartment and are in the process of conducting site visits to each provider who uses staff homes as settings. Of the 151 Residential Settings, 123 settings received an on-site visit. Analysis of site visits is ongoing.

Ongoing Assessment of Settings

Licensed and certified settings are subject to periodic compliance site-visits by DDS. HCBS settings requirements will be enforced during those visits. Settings found to have deficiencies are required to implement corrective actions and can lose their license or certification when noncompliance continues or is egregious. New providers will also be subject to an assessment of compliance with the HCBS settings requirements prior to licensure and certification.

Remediation

DDS has developed and will promulgate standards that support and promote the belief that individuals must have full access to the benefits of community living and have the opportunity to receive services in the most integrated setting appropriate. The standards specify how services must be offered in settings that are designed specifically for people with disabilities when the individuals in the setting are primarily people with disabilities and on-site staff provide services to them and the setting may have the effect of isolating the individuals who live there from the broader community of individuals not receiving Medicaid-funded HCBS.

The standards require that organizations that own or operate a residential service setting or a day service setting which may be presumed to have institutional qualities to offer services in such a way as to ensure that the characteristics required of an HCBS setting are present. The standards: 1) require assurance of specific individual rights; 2) prescribe certain characteristics of the physical plant; and 3) specify steps which must be taken if any of the required conditions must be modified based on a specific assessed need of an individual.

DDS issues a report to each Organization that owns, operates, or otherwise controls a residential setting of any characteristics at each location that does not appear to be in compliance with the current HCBS settings rule. Each Organization that receives a report of deficient practice from DDS responds with a corrective action plan and submitted its policies to verify future compliance.

DDS will issue a recommendation of approval to the site development review subcommittee for each residential setting that is in compliance with the HCBS Settings requirements. If a residential setting is not recommended for approval as complying with HCBS Settings requirements, DDS will defer to site subcommittee for final determination. If the HCBS site review subcommittee and the HCBS Settings working group do not feel that a provider is progressing towards compliance, the state will need to implement relocation strategies. The HCBS Settings working group will be developing a relocation plan in the coming months as we work through the on-site assessment process. The relocation remediation strategy will include a detailed relocation plan that provides reasonable notice and due process for residents. The relocation plan will also include a timeframe, a description of the state's process to ensure sufficient services and supports are in place prior to the transition, and assurances that affected residents will receive sufficient information, opportunity, and supports to make an informed choice regarding transition to a new compliant setting.

Heightened Scrutiny

DDS recognizes that certain settings are presumed non-compliant with the HCBS Settings requirements. Specifically, some home and community based settings have institutional qualities – those settings that are publicly or privately owned facilities that provide inpatient treatment, those settings that are located

on the grounds of, or immediately adjacent to, a public institution, or those settings that have the effect of isolating individuals from the broader community. These settings include those that are located on or near the grounds of an institution and settings which may isolate individuals from the community. These settings include group homes located on the grounds of or adjacent to a public institution, numerous group homes co-located on a single site, a disability-specific farm-like service setting and apartments located in apartment complexes also occupied by persons who do not receive HCBS services. DDS will request heightened scrutiny for those settings presumed not to be home and community based.

Following the provider self-assessment and on-site assessment(s), settings that meet any of the above criteria will be published in a public notice in the statewide newspaper, *Arkansas Democrat-Gazette*, to allow for public comment. The public notice will list the affected settings by name and location, and will identify the number of individuals served at each setting. The public notice will include all justifications as to how and why the setting meets HCBS requirements and will specifically note that the public has an opportunity to comment on the state's evidence. The state will provide responses to these public comments in a subsequent version of the STP.

In cases where DDS asks for heightened scrutiny by CMS for certain settings, the same process as described in the DAAS section will be utilized by DDS.

PARTNERS FOR INCLUSIVE COMMUNITIES - AR.0396 AUTISM WAIVER

Due to the nature of the Autism Waiver, it has been determined that the Autism Waiver complies with HCBS requirements. The Autism Waiver provides one-on-one, intensive early intervention treatment including individual assessment, treatment development, therapeutic aides, behavioral reinforcement, plan implementation, monitoring of intervention effectiveness, lead therapy, line therapy, and consultative clinical and therapeutic services for beneficiaries 18 months through 7 years of age who have been diagnosed with autism and meet ICF/IID level of care. A child must be admitted to the program on or before his fifth birthday in order to allow for the maximum of three years of treatment before aging out at his eighth birthday. All of the waiver services provide a team approach to intervention for children with Autism Spectrum Disorders (ASD). The intervention team includes the parents/guardians as active interventionists for their child, with requirements for them to be present and implement the intervention strategies for a minimum of 14 hours per week.

All of the settings for this waiver comply with HCBS requirements because they are all natural community settings that provide inclusive opportunities for the children with autism served by the waiver. These settings include locations such as the child's home, church, places where the family shops, restaurants, ball parks, etc. There are no segregated settings utilized in this program. This waiver does not offer services for children in residences other than their natural home with their parent/guardian. The homes, where the majority of services occur, are where the children live with their families. This waiver utilizes no residential settings operated by the State or private providers that are offered as out-of-home alternatives for living situations. The other natural community settings where services occur are not specialized or segregated settings but rather places where the family frequents and where the child with ASD has difficulty functioning. The community settings are tied to specific treatment goals where children need to learn functional skills or replacement behaviors to be able to be included in natural community locations.

TRANSITION PLAN CHART

The State is proposing to achieve and maintain full compliance with HCBS Settings requirements, as indicated by this statewide transition plan. The attached transition plan chart outlines the processes,

initiation and completion dates at which DAAS, DDS and stakeholders will follow to identify and assess providers, remediate any areas of non-compliance, and conduct outreach to engage providers and other stakeholders. Items which pertain to DAAS are indicated by the use of the acronym for the Division name, DAAS, as well as by the use of the letter “A” followed by a number (e.g. A-1). Items which pertain to DDS are indicated by the use of the acronym for the Division name, DDS, as well as by the use of the letter “D” followed by a number (e.g. D-1). The chart is divided into four sections: Identification, Assessment, Remediation, and Outreach and Engagement. Components include: Action Numbers, Division, Action Items, Proposed Start Dates, Proposed End Dates, Completed (indication), Sources, Key Stakeholders, and Interventions/Outcomes [see AR HCBS STP–Timeline Chart (12-15-2015)].