

Idaho State Transition Plan

Coming Into Compliance with HCBS Setting Requirements:

Public Notice and Request for Comment

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Posted for Public Comment until November 2, 2014
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Purpose

The purpose of this posting is to provide public notice and receive public comments for consideration regarding Idaho Medicaid's Draft Home and Community Based Services Settings Transition Plan.

Transition Plan

The Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) published regulations in the Federal Register on January 16, 2014, which became effective on March 17, 2014, implementing new requirements for Medicaid's 1915(c), 1915(i), and 1915(k) Home and Community-Based Services (HCBS) waivers. These regulations require the state to submit a transition plan for all the state's 1915(c) waiver and 1915(i) HCBS state plan programs. This plan sets forth the actions Idaho will take to operate all applicable HCBS programs in compliance with the final rules. It is Idaho's effort to comply/demonstrate compliance with the regulations around Home and Community Based (HCB) setting requirements. Idaho will be submitting its transition plan to CMS. The federal regulations are 42 CFR 441.301(c)(4)-(6). More information can be found on the [CMS website](#).

Copies may be obtained by printing the Transition Plan from Idaho's HCBS webpage: www.HCBS.dhw.idaho.gov. Copies may also be picked up from any Regional Medicaid Office or at the Medicaid Central Office located at 3232 Elder St., Boise ID.

Public Comment Submission Process

The state of Idaho's Department of Health and Welfare, Division of Medicaid is seeking public input on the transition plan. Please take the time to comment on the transition plan and whether or not you believe it includes sufficient activities for the state of Idaho to comply with the new HCBS regulations. Every comment matters.

Comments should be submitted by November 2, 2014. Comments and input regarding the draft transition plan may be submitted in the following ways:

- a) On the web at www.HCBS.dhw.idaho.gov: in the right hand column you will see an "Ask the Program" section. There you can use the **Email the program** tab to email your comments directly to the program.
- b) By e-mail: HCBSSettings@dhw.idaho.gov
- c) By written comments sent to:
HCBS
Division of Medicaid, Attn. Transition Plan
PO Box 83720
Boise, ID 83720-0009
- d) By FAX: (208) 332-7286 (please include: Attn. HCBS Transition Plan)
- e) By calling toll free to leave a voicemail message: 1 (855) 249-5024

All comments will be tracked and summarized. The summary of comments in addition to a summary of modifications made in response to the public comments will be added to the Statewide Transition Plan. In cases where the state's determination differs from public comment, the additional evidence and rationale the state used to confirm the determination will be added to the Transition Plan as well. The Transition Plan will then be submitted to CMS. Once it is submitted to CMS, the updated Transition Plan will be reposted on the HCBS webpage listed above.

Transition Plan Summary

Idaho completed a preliminary analysis of its residential HCBS settings in late summer of 2014. This analysis identified areas where the new regulations on residential settings are supported in Idaho as well as areas that will need to be strengthened in order to align Idaho's HCBS programs with the regulations. Actions necessary for Idaho to come into full compliance have been proposed in the Transition Plan along with a timeline for doing so.

States must also determine if it has settings that meet certain characteristics as described by CMS and thus are presumed by CMS to be institutional settings. The Transition Plan describes Idaho's work to date in relationship to this requirement as well as its plans for completing that assessment.

The plan further outlines Idaho's intentions for coming into full compliance with all non-residential setting requirements.

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Overview

The intention of the rule is to ensure that individuals receiving long-term services and supports through these waiver programs have full access to the benefits of community living and the opportunity to receive services in the most integrated settings appropriate. In addition, the new regulations aim to enhance the quality of home- and community-based services (HCBS) and provide protections to participants. Idaho Medicaid administers several HCBS programs that fall under the scope of the new regulations: the Aged and Disabled Waiver, the Idaho Developmental Disabilities Waiver, the Act Early Waiver, the Children's Developmental Disabilities Waiver, and the 1915(i) program for children and adults with developmental disabilities.

Idaho Medicaid initiated a variety of activities beginning in July of 2014 designed to engage stakeholders in the development of this transition plan. The engagement process began with a series of web-based seminars that were hosted in July through September and which summarized the new regulations and solicited initial feedback from a wide variety of stakeholders. HCBS providers, participants, and advocates were invited to attend these seminars. The state also launched an HCBS webpage, www.HCBS.dhw.idaho.gov, hosting information about the new regulations, FAQs, and progress updates regarding the development of Idaho's draft transition plan. The webpage contains an "Ask the Program" feature whereby interested parties are encouraged to submit comments, questions, and concerns to the project team at any time. Additional opportunities were established to share information and for stakeholders to give input regarding the new regulations and Idaho's plans for transitioning into full compliance. They are described in more detail in Section Three.

Idaho completed a preliminary gap analysis of its residential HCBS settings in late summer of 2014. This analysis identified areas where the new regulations on residential settings are supported in Idaho as well as areas that will need to be strengthened in order to align Idaho's HCBS programs with the regulations. The preliminary results of that analysis were shared with stakeholders via a WebEx meeting on September 16, 2014, and then posted on the Idaho HCBS webpage.

Idaho Medicaid's HCBS are furnished in two types of provider-controlled residential settings: residential assisted living facilities and certified family homes. The project team's initial gap analysis included an in-depth review of state administrative rule and statute, Medicaid waiver and state plan language, licensing and certification requirements, service definitions, administrative and operational processes, provider qualifications and training, quality assurance and monitoring activities, reimbursement methodologies, and person-centered planning processes and documentation. This preliminary analysis, summarized in the next section, has informed the recommendation to develop several proposed changes to rule, operational processes, quality assurance activities, and program documentation.

Idaho Medicaid has also initiated an analysis of residential settings that meet criteria established by the Centers for Medicare and Medicaid Services (CMS) as presumptively institutional. Two stakeholder engagement processes were employed to assist Medicaid in this work. Both efforts are discussed in Section Oneb.

Idaho’s analysis of its non-residential HCBS settings is currently underway. Idaho will complete this analysis and determine if remediation is needed pending further guidance from CMS regarding these types of settings.

Section 1: Results of Idaho Medicaid’s Assessment of Settings

1a. Residential Setting Analysis

Idaho’s analysis of its residential settings is summarized below, including an overview of existing support for each new regulation followed by preliminary recommendations to transition these settings into full compliance with the new regulations.

Provider Owned or Controlled Residential Settings

Federal Requirement: <i>Home and community-based settings must have all of the following qualities, 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:</i>	Analysis of Idaho’s Residential Settings		
		Certified Family Homes (CFH)	Residential Assisted Living Facilities (RALF)
1. The setting is integrated in, and facilitates the individual’s full access to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho licensing and certification rule and provider materials support residents’ participation in community activities and access to community services.	Community integration and access are supported in licensing and certification rule.
	Gap	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS”.	
	Remediation	<p>Develop standards around “to the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
2. The setting includes opportunities to seek employment and work in competitive, integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Supported employment is a service available on both the A&D and DD waivers. There are no limitations to supported employment based on a participants’ residential setting.	
	Gap	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS”.	
	Remediation	<p>Develop standards around “to the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
3. The setting includes opportunities to engage in community life to the	Support	Idaho Rule, provider agreements, and the CFH Provider Manual	Rule supports that RALFs must facilitate normalization

same degree of access as individuals not receiving Medicaid HCBS.		support that a certified family home should provide opportunities for participation in community life.	and integration into the community for participants.
	Gap	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS”.	
	Remediation	<p>Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho Rule, the CFH Provider Manual, and the provider agreement support the participant's right to manage funds.	Rule supports the participant's right to manage funds by indicating that RALF providers cannot require the participant to deposit his or her personal funds with the provider except with the consent of the participant.
	Gap	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS”.	
	Remediation	<p>Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Rule supports the participant's free choice on where and from whom a medical service is accessed and allows free access to religious and other services delivered in the community.	Rule supports the participant's right to participate in the community.
	Gap	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS”.	
	Remediation	<p>Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for	Support	Department processes support that participants must sign the service plan that includes documentation that choice of	Department processes support that participants must sign documentation that the choice of a

<p>a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and based on the individual’s needs, preferences, and resources available for room and board (for residential settings).</p>		<p>residential setting was offered.</p> <p>Waivers and State Plan language support that the service plan development process must use the preferences of the participant and that the residential setting selection must be documented.</p>	<p>residential setting was offered.</p> <p>Waivers and State Plan language support that the service plan development process must use the preferences of the participant and that the residential setting selection must be documented.</p>
	Gap	<p>The state lacks support for ensuring that options are available for participants to potentially choose a private room and that the service plan must document location selection for all service settings.</p>	
	Remediation	<p>Idaho will strengthen protocols to fully align with the requirement and enhance existing quality assurance activities to ensure compliance. Idaho will add clarifying language to service plan sections of A&D and DD waiver rule in IDAPA 16.03.10 to include this new CFR language such that service plans must document location selection for ALL service settings, not just residential. Through operational processes, the state will ensure that participants are aware of options available for a private unit.</p>	
<p>7. An individual’s essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	Support	<p>These participant rights are protected and supported in Idaho statute and licensing and certification rule.</p>	
	Gap	<p>None</p>	
	Remediation	<p>None</p>	
<p>8. Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but is not limited to, daily activities, physical environment, and with whom to interact.</p>	Support	<p>Participants’ independence is supported in state statute and licensing and certification rule.</p> <p>Previously established CFH resident rights also support this requirement.</p>	<p>Participants’ independence and autonomy are supported in licensing and certification rule.</p>
	Gap	<p>The state lacks support for ensuring that participants’ activities are not regimented.</p>	<p>The state lacks support for ensuring that participants’ initiative, autonomy, and independence in choosing daily activities, physical environment, and with whom to interact are optimized and not regimented.</p>
	Remediation	<p>Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement.</p> <p>Enhance existing monitoring and quality assurance activities to ensure compliance.</p>	
<p>9. Individual choice regarding services and supports, and who provides them, is facilitated.</p>	Support	<p>Rule supports that participant choices regarding services and supports, and who provides them, are facilitated.</p>	
	Gap	<p>None</p>	
	Remediation	<p>None</p>	
<p>10. The unit or room is a specific physical place that can be owned, rented, or occupied under another</p>	Support	<p>Rule supports that the admission agreement be completed and indicates residents must have</p>	<p>Rule supports that participants are given 30-day notice of discharge/transfer,</p>

legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the state, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the state must ensure that a lease, residency agreement, or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.		advance notice at least 15 days prior to transfer, which is greater than the 3-day notice required under Idaho landlord tenant law (Title 6, Chapter 3 of Idaho Statute).	which is greater than the 3-day notice required under Idaho landlord tenant law (Title 6, Chapter 3 of Idaho Statute).
	Gap	None	
	Remediation	None	
11. Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Support	Rule supports a participant's right to privacy.	
	Gap	The state lacks support for ensuring that individuals have lockable entrance doors to their sleeping or living units.	
	Remediation	Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement. Enhance existing monitoring and quality assurance activities to ensure compliance.	
12. Individuals sharing units have a choice of roommates in that setting.	Support	None found	
	Gap	The state lacks support for ensuring that individuals sharing units have a choice of roommates.	
	Remediation	Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement. Enhance existing monitoring and quality assurance activities to ensure compliance.	
13. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Support	The provider agreement supports that individuals have the right to furnish and decorate their living area.	Rule and Idaho Statute support that individuals have the right to furnish and decorate their living area.
	Gap	None	
	Remediation	None	
14. Individuals have the freedom and support to control their own schedules and activities.	Support	Rule supports a participant's freedom and support to choose services.	
	Gap	The state lacks support for ensuring that individuals control their own schedules and activities.	
	Remediation	Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement. Enhance existing monitoring and quality assurance activities to ensure compliance.	
15. Individuals have access to food at	Support	None found	

any time.	Gap	The state lacks support for ensuring that individuals have access to food at any time.	
	Remediation	Add a list of minimum participant rights and provider requirements in provider controlled residential settings in the A&D and DD waiver sections of IDAPA 16.03.10 to incorporate this new setting requirement. Enhance existing monitoring and quality assurance activities to ensure compliance.	
16. Individuals are able to have visitors of their choosing at any time.	Support	Rule and the Residents Rights Policy and Notification Form support that individuals are able to have visitors of their choosing at any time.	Idaho Statute supports that individuals are able to have visitors of their choosing at any time.
	Gap	None	
	Remediation	None	
17. The setting is physically accessible to the individual.	Support	Rule and the Residents Rights Policy and Notification Form support that the setting must be physically accessible to the individual.	Rule supports that the setting must be physically accessible to the individual.
	Gap	None	
	Remediation	None	

Due to the gaps identified above Idaho is unable to say at this time how many settings fully align with the federal requirements, how many do not comply and will require modifications, and how many cannot meet the federal requirements and require removal from the program and/or relocations of individuals. Proposed plans to complete an assessment are outlined in Section Two. Medicaid must first finalize its strategy for completing a comprehensive assessment and the state must also enact regulatory changes to allow enforcement before the assessment of individual settings can be completed.

Non- Provider Owned or Controlled Residential Settings

Idaho’s residential habilitation services include services and supports designed to assist participants to reside successfully in their own homes, with their families, or in a certified family home. Residential habilitation services provided to the participant in their own home are called “supported living” and are provided by a residential habilitation agency. Supported living services can either be provided hourly or on a 24-hour basis. The state presumes that all residential setting qualities are met in supported living arrangements since the place of service is the participant’s own home which is not provider owned or controlled. Idaho will enhance existing quality assurance and provider monitoring activities to ensure that participants retain decision-making authority in their home.

As part of Medicaid’s outreach and collaboration efforts, Idaho initiated contact with supported living service providers in September. The goal is be sure these providers understand the new regulations regarding HCBS settings, how they apply to the work that they do, and to address any questions or concerns this provider group may have. It is expected that work with this group will be ongoing as long as needed.

Additionally, Idaho will ensure that all non-residential setting requirements are met. Idaho's analysis of non-residential settings is pending upon further guidance from CMS regarding these types of settings.

1b. Analysis of Settings Presumed to be Institutional

The Centers for Medicare and Medicaid Services has identified three characteristics of settings that will be presumed to be institutional. Those characteristics are:

1. The setting is in a publicly or privately owned facility providing inpatient treatment.
2. The setting is on the grounds of, or immediately adjacent to, a public institution.
3. The setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

Idaho Medicaid supports two residential settings that needed to be analyzed against these three characteristics. They are certified family homes (CFHs) and residential assisted living facilities (RALFs).

Certified Family Homes

As of September 2014, Idaho had 2,212 CFHs. A CFH is a private home setting in which a home care provider assists the participant with activities of daily living, provides protection and security, and encourages the participant toward independence. The CFH must assist the individual with establishing relationships and connecting with their community. Idaho Code 39-3501 states that the purpose of a CFH is to provide a homelike alternative designed to allow individuals to remain in a normalized family-styled living environment, usually within their own community. It further states that it is the intent of the legislature that CFHs be available to meet the needs of those residing in these homes while providing a homelike environment focused on integrated community living rather than other more restrictive environments and by recognizing the capabilities of individuals to direct their own care. Individuals in a CFH reside and interact with family members or other community members (visitors, friends, neighbors) who visit the CFH or vice versa. It is therefore assessed that these homes do not meet any of the three characteristics of an institution.

Residential Assisted Living Facilities

As of August 2014, Idaho had a total of 352 RALFs, each of which is licensed by the Division of Licensing and Certification. Of those, 204 RALFs billed Medicaid for services from February 2014 through July 2014. Note that these numbers are prone to change as facilities open and close or change the payer sources they will accept.

As of the publication of this transition plan, Idaho's assessment of RALFs against the characteristics of settings presumed to be institutional is not complete. That assessment will be completed as described in Section Two and reported in a later version of the Idaho State Transition Plan. However, several initial steps have been taken to prepare us for that assessment. The first step was to offer a WebEx meeting to stakeholders that provided an overview of the characteristics of settings presumed to be an institution. Stakeholders who were invited to that WebEx included providers, advocates, Medicaid members receiving HCBS services, agencies that work with the targeted populations and state personnel. A question and answer period followed the presentation. Stakeholder questions and comments were

documented. Stakeholders were specifically asked to provide feedback to the state on the following, but very little feedback was received:

- Does their facility meet any of the CMS characteristics of a setting presumed to be an institution?
- If so, does that facility also meet the qualities of a home- and community-based setting?
- All stakeholders were asked to provide Medicaid with ideas on how facilities that meet the CMS characteristics of an institution might refute that presumed classification where appropriate. What evidence might be provided?
- If a facility does not meet the home- and community-based setting requirements, or if it will be presumed to be an institution, would the provider make changes to come into compliance?
- If so, how might a facility transition to full compliance and how long would it take?

Next, Medicaid developed a survey containing the following questions (based on guidance from CMS):

1. Is this setting in a publicly or privately owned facility providing inpatient treatment?
2. Is this setting on the grounds of, or immediately adjacent to, a public institution?
3. Does this setting have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS?
 - a. Is this setting designed specifically for people with disabilities, and often even for people with a certain type of disability?
 - b. Are the individuals in this setting primarily or exclusively people with disabilities and on-site staff provides many services to them?
 - c. Is this setting designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities?
 - d. Do people in this setting have limited, if any, interaction with the broader community?
 - e. Does this setting use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g., seclusion)?

Health facility surveyors from the RALF program were then asked to answer those questions for each RALF. The six surveyors who participated each have between five and nine years of experience traveling throughout the state of Idaho to conduct licensing surveys and complaint investigations at all of the licensed residential care assisted living facilities in the state. The team conducts approximately 200 site visits per year, and each facility in the state undergoes a survey visit at least once every four years.

Surveyors did not find any RALFs in a publicly or privately owned facility providing inpatient treatment. They also did not find any on the grounds of, or immediately adjacent to, a public institution. However, 22 RALFS in Idaho were determined to be on the grounds of or immediately adjacent to a nursing home or hospital. Twelve of those RALFs are currently housing Medicaid participants and getting paid by

Medicaid to do so. The remaining 10 RALFs are not Medicaid providers. Idaho Medicaid understands the need to take extra steps to ensure that these 12 RALFs are not institution-like settings and are not isolating residents.

Providers representing all the facilities identified above were invited to attend two conference calls with Medicaid staff. The goals for those calls were: 1) to educate providers about the new setting requirements and the criteria for settings presumed to be institutions as described in rule, and 2) to discuss options for ensuring that they are not institutional, do not isolate residents, and that the facility meets the requirements of a home- and community-based setting. Medicaid wanted to hear directly from the providers affected what makes them different from an institution and the evidence providers believe they can provide to ensure they are not an institution-like setting. Ongoing communication from this group has been encouraged.

Medicaid is considering all the information obtained from these providers and will be drafting a recommendation about how any provider, now or in the future, whose location is in a publicly or privately-owned facility providing inpatient treatment, or whose location is on the grounds of or immediately adjacent to a nursing home or hospital, may prove it is not an institutional setting if appropriate. That draft recommendation will be reviewed by interested providers and comments will be considered before the final process is approved by Medicaid's administration.

Assessment of the RALFs against the third characteristic, settings that have the effect of isolating individuals from the broader community, is not complete. Idaho Medicaid determined that the questions used in the survey and answered by health facility surveyors are not sufficient to establish if a particular setting has the effect of isolation. Medicaid is moving forward with developing standards for this characteristic. It is expected that having standards will lead to a more accurate, less subjective assessment of whether or not the setting has the effect of isolating residents from the broader community.

To develop those standards, Medicaid formed a second workgroup consisting of providers, advocates, and policy staff. This workgroup met several times in August and September and is continuing to work to develop proposed standards. Medicaid expects to have a draft set ready by the end of this year. That proposal will then be shared with stakeholders and additional feedback will be solicited at that time. Then the proposal will be sent to Medicaid's administration for approval. Once those standards are finalized and approved, they will be formalized and disseminated to providers and will be included in the overall ongoing assessment process for RALFs.

A formal review of all RALFs against the characteristics of an institutional setting will occur as outlined in Section Two. Medicaid must first finalize its strategy for completing a comprehensive assessment and the state must also enact regulatory changes to allow enforcement. Then Idaho will move forward to complete the assessment of RALFs. That assessment will identify any RALF presumed to be an institution.

1c. Non-Residential Setting Analysis

Idaho's analysis of its non-residential HCBS settings is currently underway. Idaho's regulations, standards, policies, licensing and certification requirements, service definitions, administrative and operational processes, provider qualifications and training, quality assurance and monitoring activities, reimbursement methodologies, and person-centered planning processes and documentation for non-residential services are being examined to determine the degree of support already in place for the new regulations in non-residential settings where HCBS are provided. Idaho will complete this analysis and determine if remediation is needed pending further guidance from CMS regarding these types of settings. That information will be provided in a future updated Idaho State Transition Plan which will be published for comment following the same guidelines implemented with this publication.

DRAFT

Section 2: State Assessment Completion, Proposed Remedial Strategies, and Timeline

2a. Residential Settings: Assessment and Remedial Strategies

Assessment and Public Input for Residential Setting Requirements						
Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Residential setting gap analysis	Conduct a review of standards and regulations, waiver requirements, policies, licensing requirements, provider qualifications, operational process and supporting documents.	June 2014	October 2014	<ul style="list-style-type: none"> Setting analysis 	<ul style="list-style-type: none"> Department staff 	Complete
Informational WebEx Meetings	Conduct a WebEx web-based seminar series to provide information to participants, advocates and providers on the new HCBS regulations, solicit feedback/input, and provide contact information for submitting additional comments or questions.	July 2014	September 2014	<ul style="list-style-type: none"> Webpage WebEx web-based seminar PowerPoint 	<ul style="list-style-type: none"> Providers Participants Advocates 	Complete
Draft Transition Plan	Draft a transition plan based on the residential setting gap analysis and feedback received through the WebEx series. Additionally the state will issue required public notices for posting the draft transition plan.	August 2014	October 2014	<ul style="list-style-type: none"> Draft transition plan 	<ul style="list-style-type: none"> Department staff 	Complete
Post the Draft Transition Plan and Gather Feedback	Post draft transition plan on Idaho's HCBS webpage. Collect comments and summarize for incorporation in the transition plan and within communication tools (e.g. FAQs).	October 2014	November 2014	<ul style="list-style-type: none"> Public notices Webpage posting of the draft transition plan 	<ul style="list-style-type: none"> Providers Participants Advocates 	
Incorporate Feedback Into Transition Plan	Document and respond to stakeholder comments on transition plan. Modify transition plan as needed.	November 2014	December 2014	<ul style="list-style-type: none"> Analysis of public comments 	<ul style="list-style-type: none"> Department staff 	
Submit Transition Plan to CMS		December 2014	December 2014	<ul style="list-style-type: none"> Updated proposed transition plan 	<ul style="list-style-type: none"> CMS 	
Develop Standards Around "to the same degree of access as individuals not receiving Medicaid HCBS."	Draft standards with provider and advocate feedback and input.	November 2014	January 2015	<ul style="list-style-type: none"> Standards 	<ul style="list-style-type: none"> Providers Participants Advocates 	
Options Analysis on Monitoring and Quality Assurance Strategy	Medicaid staff will complete an assessment of current quality assurance data collected and processes used. Recommendations will be made to Administration on how HCBS residential settings are to be assessed to ensure they meet the residential setting requirements and how ongoing monitoring should proceed. Administration will set a strategy for moving forward.	October 2014	January 2015	<ul style="list-style-type: none"> Quality assurance strategy options analysis document 	<ul style="list-style-type: none"> Providers Department staff 	

Remediation for Residential Setting Requirements

Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Idaho Administrative Code (will allow enforcement)	The state will revise IDAPA to reflect final regulations on HCBS setting requirements. Rule changes will include strengthening HCBS provider requirements to align with HCBS setting requirements. Additionally, rules will outline transition process for settings to come into full compliance by March 2019.	March 2015	July 2016	<ul style="list-style-type: none"> • Public notices • Negotiated rulemaking • Draft rules • Analysis of public comments • Final rules 	<ul style="list-style-type: none"> • Providers • Participants • Advocates • Idaho Legislature 	
Stakeholder Communications	There will be ongoing WebEx meetings with stakeholders to provide updates, solicit input, and ensure understanding of the requirements, any revisions to IDAPA, etc.	December 2014	March 2019	<ul style="list-style-type: none"> • PowerPoints • WebEx meetings 	<ul style="list-style-type: none"> • Participants • Providers • Advocates 	
Manual and Form Revisions	The state will revise manuals, Department of Health and Welfare approved forms, and/or provider agreements to incorporate new regulatory requirements for HCBS setting qualities.	January 2016	July 2016	<ul style="list-style-type: none"> • Provider manuals • Provider agreement • Universal Assessment Instrument (UAI) • Individual Service Plan (ISP) • Operation manuals 	<ul style="list-style-type: none"> • Providers • Department staff 	
Toolkit Development	The state will develop a tool kit for providers summarizing the newly established requirements. It will include a checklist to assist them in completing a self-assessment of their facility against the requirements of a home- and community- based setting.	September 2015	July 2016	<ul style="list-style-type: none"> • Toolkit documents 	<ul style="list-style-type: none"> • Providers • Department staff 	
Self-assessment Toolkit and Provider Training	At implementation of new IDAPA rules, the state will provide residential providers with the self-assessment toolkit to assist them with coming into compliance. The state will provide training on use of the toolkit for providers. The goal of the trainings is to ensure providers understand the new requirements, are prepared for Medicaid's assessment of their facility, and understand what changes may be needed to come into full compliance.	July 2016	August 2016	<ul style="list-style-type: none"> • Toolkit • PowerPoint presentations • Toolkit materials • WebEx meetings 	<ul style="list-style-type: none"> • Providers • Department staff 	

Time for Providers to Come Into Compliance (6 months)	The state will allow providers six months to move to full compliance.	July 2016	December 2016		<ul style="list-style-type: none"> • Providers 	
Assessment of Compliance (1 year)	The state will implement its enhanced quality assurance process to include monitoring and oversight of all HCBS settings to ensure ongoing compliance with the HCBS setting requirements. The state will collect data from quality reviews and participant outcome reviews to track status of the residential setting transition process.	January 2017	December 2017	<ul style="list-style-type: none"> • Quality assurance processes and documentation 	<ul style="list-style-type: none"> • Providers • Department staff 	
Provider Remediation (up to 75 days per provider)	The state will require corrective action plans for providers that have failed to meet standards or have failed to cooperate with the HCBS transition.	March 2017	March 2018	<ul style="list-style-type: none"> • Provider letters 	<ul style="list-style-type: none"> • Providers • Department staff 	
Provider Sanctions and Disenrollment (30 days per provider)	The state will sanction and/or disenroll providers that have failed to meet remediation standards or have failed to cooperate with the HCBS transition.	April 2017	April 2018	<ul style="list-style-type: none"> • Provider letters 	<ul style="list-style-type: none"> • Providers • Department staff 	
Member Transitions to HCBS Compliant Settings (11 months per facility)	If necessary, the state will work with case managers, person-centered planning teams, and participants to ensure that members are transitioned to providers meeting HCBS setting requirements. Members will be given timely notice and a choice of alternative providers through a person-centered process.	May 2017	March 2019	<ul style="list-style-type: none"> • Provider letter • Participant letter 	<ul style="list-style-type: none"> • Participants • Providers • Department staff 	
FULL COMPLIANCE	All RALFs and CFHs housing residents who are receiving HCBS will be fully compliant with the provider owned and controlled residential setting requirements.	March 2019	March 2019		<ul style="list-style-type: none"> • Participants • Providers • Department staff 	
Ongoing Monitoring	The state will utilize its ongoing monitoring plan to ensure ongoing compliance with the HCBS setting requirements. The state will collect data from quality reviews and participant outcome reviews to track the status of the residential setting requirement compliance.	January 2018	Ongoing	<ul style="list-style-type: none"> • Quality assurance processes and documentation 	<ul style="list-style-type: none"> • Providers • Department Staff 	

2b. Settings Presumed to be Institutional: Assessment and Remedial Strategies

Assessment and Public Input for Settings Presumed to be Institutional						
Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Informational WebEx Meeting	Conduct a WebEx to provide information to participants, advocates, and providers on the new HCBS regulations as they relate to characteristics of settings presumed to be institutional, solicit feedback and input, and provide contact information for submitting additional comments or questions.	August 2014	August 2014	<ul style="list-style-type: none"> • Webpage • WebEx PowerPoint 	<ul style="list-style-type: none"> • Providers • Participants • Advocates 	Complete
Initial Analysis of Settings that Meet One of the First Two Characteristics of Institutional Settings	Health facility surveyors from the RALF program were asked to identify if any RALF was in a publicly or privately-owned facility providing inpatient treatment or if the setting is on the grounds of, or immediately adjacent to, a public institution.	June 2014	July 2014	<ul style="list-style-type: none"> • Survey document with site results 	<ul style="list-style-type: none"> • Providers • Department staff • Participants 	Complete
Draft Transition Plan	Ensure the draft transition plan includes information related to the assessment of characteristics of settings presumed to be institutional.	August 2014	October 2014	<ul style="list-style-type: none"> • Draft transition plan 	<ul style="list-style-type: none"> • Department staff 	Complete
Phone Conferences With RALFs that Were Found to be On The Grounds of, or Immediately Adjacent to, a Nursing Home or Hospital	Any RALF found to be on the grounds of, or immediately adjacent to, a nursing home or hospital were invited to participate in a series of phone meetings to discuss the types of evidence that might be provided to Medicaid to ensure these settings are not isolating residents.	August 2014	September 2014	<ul style="list-style-type: none"> • Summary of comments 	<ul style="list-style-type: none"> • Providers • Department staff 	Complete

Process and Documentation Approved by Medicaid Which Will Ensure That RALFs Found to be On The Grounds of, or Immediately Adjacent to, a Nursing Home or Hospital are Not Isolating Residents	Input from the RALF providers gathered. Burden of each option on providers and on Medicaid resources assessed. Information used to make a recommendation to Medicaid's administration for documentation requirements to ensure that these facilities are not isolating residents.	October 2014	January 2015	<ul style="list-style-type: none"> • Policy on how to refute classification as an institution 	<ul style="list-style-type: none"> • Medicaid's administration • Providers 	
Workgroup – Determine Standards For Settings That Have The Effect of Isolating Individuals From The Broader Community of Individuals Not Receiving Medicaid HCBS	Workgroup comprised of RALF providers, Medicaid nurse reviewers, advocates, and Medicaid policy staff to recommend standards for Idaho for settings that have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.	August 2014	December 2014	<ul style="list-style-type: none"> • Recommendation for Medicaid's administration on standards and process for monitoring 	<ul style="list-style-type: none"> • Providers • Department staff • Advocates 	
Idaho Standards For Settings That Isolate Finalized	Workgroup recommendations considered and proposal for standards submitted and approved by Medicaid's administration.	January 2015	January 2015	<ul style="list-style-type: none"> • Approved standards 	<ul style="list-style-type: none"> • Providers • Department staff • Advocates 	
Quality Assurance Strategy	Medicaid staff will complete an assessment of current quality assurance data collected and processes used; make recommendations to Medicaid's administration about what needs to be enhanced or added to ensure that no setting with the characteristics of an institution can house participants receiving HCBS. A quality assurance strategy will be approved and implemented.	October 2014	January 2015	<ul style="list-style-type: none"> • Recommendation document 	<ul style="list-style-type: none"> • Providers • Department staff 	

Remediation for Settings Presumed to be Institutional

Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Idaho Administrative Code (will allow enforcement)	The state will revise IDAPA to incorporate the three characteristics of settings presumed to be an institution. Rules will outline a transition process for settings to come into full compliance by March 2019.	March 2015	July 2016	<ul style="list-style-type: none"> • Public notices • Negotiated rulemaking • Draft rules • Analysis of public comments • Final rules 	<ul style="list-style-type: none"> • Providers • Participants • Advocates • Idaho legislature 	

Toolkit Development	Ensure the tool kit for providers includes necessary information about the characteristics of setting that are presumed to be institutional as well as the standards for settings that isolate. It must also include the documentation providers need to submit to Medicaid to ensure settings do not isolate residents. The checklist for providers will include all appropriate items related to institutional characteristics.	September 2015	July 2016	<ul style="list-style-type: none"> • Toolkit documents 	<ul style="list-style-type: none"> • Providers • Department staff 	
Manual and Form Revisions	The state will revise provider manuals, Idaho Department of Health and Welfare approved forms, and/or provider agreements to incorporate regulatory requirements for settings presumed to be institutional.	January 2016	July 2016	<ul style="list-style-type: none"> • Provider manuals • Provider agreements • Operations manuals 	<ul style="list-style-type: none"> • Providers • Department staff 	
Time for Providers to Come Into Compliance (6 months)	The state will allow providers six months to move to full compliance.	July 2016	December 2016		<ul style="list-style-type: none"> • Providers 	
Assessment of Compliance (1 year)	The state will implement its enhanced quality assurance process to include monitoring and oversight of all HCBS settings to ensure ongoing compliance with the HCBS setting requirements and characteristics of an institutional setting. The state will collect data from quality reviews and participant outcome reviews to track the status of the residential setting transition process.	January 2017	December 2017	<ul style="list-style-type: none"> • Quality assurance processes and documentation 	<ul style="list-style-type: none"> • Providers • Department staff 	
Provider Remediation (up to 75 days per provider)	The state will require corrective action plans for providers that have failed to meet standards or have failed to cooperate with the HCBS transition. This will include documentation to support that any setting found to be on the grounds of, or immediately adjacent to, a nursing home or hospital is not isolating residents.	March 2017	March 2018	<ul style="list-style-type: none"> • Provider letters 	<ul style="list-style-type: none"> • Providers • Department staff 	
Provider Sanctions and Disenrollment (30 days per provider)	The state will sanction and/or disenroll providers that have failed to meet remediation standards or have failed to cooperate with the HCBS transition.	April 2017	April 2018	<ul style="list-style-type: none"> • Provider letters 	<ul style="list-style-type: none"> • Providers • Department staff 	

Member Transitions to home and community based compliant settings (1 year per facility)	If necessary, the state will work with case managers, person-centered planning teams, and participants to ensure that members are transitioned to providers meeting HCBS setting requirements which are not institutions. Members will be given timely notice and a choice of alternative providers through a person-centered process.	May 2017	March 2019	<ul style="list-style-type: none"> • Provider letter • Participant letter 	<ul style="list-style-type: none"> • Participants • Providers • Department staff 	
FULL COMPLIANCE	All RALFs and CFHs housing residents who are receiving HCBS will be fully compliant with the provider owned and controlled residential setting requirements and not presumed to be institutional.	March 2019	March 2019		<ul style="list-style-type: none"> • Participants • Providers • Department staff 	
Ongoing Monitoring	The state will utilize its ongoing monitoring plan to ensure ongoing compliance with the HCBS setting requirements. The state will ensure that any facility that meets the characteristics of an institution does not isolate residents and is truly home- and community-based.	January 2018	Ongoing	<ul style="list-style-type: none"> • Quality assurance processes and documentation 	<ul style="list-style-type: none"> • Providers • Department staff 	

2c. Non-Residential Settings: Assessment and Remedial Strategies

Idaho's analysis of its non-residential HCBS settings is pending upon further guidance from CMS regarding these types of settings.

Section 3: Public Input Process

3a. Summary of the Public Input Process

The state implemented a collaborative, multifaceted approach to solicit feedback from the public to assist with the review of the HCBS requirements.

1. In order to share information with providers, associations, consumer advocacy organizations, participants, and other potentially interested stakeholders about the new HCBS requirements, the state created a webpage that includes a description of the work underway and access to relevant information from the state and CMS regarding the HCBS requirements. The webpage was launched the first week of August 2014.
2. The webpage includes an "Ask the Program" feature where readers can email the program directly with questions and comments at any time. This option has been available for stakeholders since the webpage went live and will remain a tool on the webpage.
3. In August 2014, the state posted general information about this work and a link to the state's HCBS webpage on the provider billing portal (Molina). Information was also included in the Medicaid Newsletter, a newsletter sent to all Medicaid providers.
4. In order for the state to collaborate with participants on the new HCBS requirements, it offered information to several advocacy groups including the Idaho Self-Advocate Leadership Network and the Idaho Council on Developmental Disabilities. The state also requested that service coordinators and children's case managers distribute information to participants about how to access the HCBS webpage and to advise them that the draft transition plan will be available for public comment beginning October 3.
5. Stakeholder meetings were conducted via a series of WebEx presentations. A series of five WebEx meetings were held during the months of July, August, and September 2014. They were designed to educate providers about the new regulations, to share information about Medicaid's plans and assessment outcomes, and to solicit feedback from providers, associations, consumer advocacy organizations, participants, and other potentially interested stakeholders.
6. Stakeholders have access to the WebEx series that the state presented on the state's webpage. This includes the PowerPoint presentations as well as audio recordings of the WebEx meetings.
7. The state conducted several conference calls with RALF providers and advocates during the months of August and September to collaborate and gather additional information related to settings presumed to be institutional.

8. The state is currently working with a group of supported living providers to determine how to best ensure that participants receiving those services retain decision-making authority in their homes.
9. The work with the provider groups and the stakeholder WebEx meetings are expected to continue well into next year.
10. The regulation requires that states provide a minimum of 30-day public notice period for the state's transition plan and two options for public input. To meet this requirement, Idaho has done the following:
 - The draft transition plan, as well as information about how to comment, was posted on the state HCBS webpage (www.HCBS.dhw.idaho.gov) on October 3, 2014 through November 2, 2014. Comment options here include a link to email the program directly with comments.
 - Free copies of the draft transition plan were placed in all regional Medicaid offices statewide October 3, 2014 through November 2, 2014 as well as in the Medicaid State Central office for stakeholders to access.
 - A tribal solicitation letter was e-mailed and sent via US mail to the federally recognized Idaho tribes as well as the Northwest Portland Area Indian Health Board, which works closely with Idaho tribes as a coordinating agency. Solicitation letters were also uploaded onto a website designed specifically for communication between Idaho Medicaid and Idaho tribes.
 - Notification of the posting of the draft transition plan was also made via emails to providers, associations, consumer advocacy organizations, participants, and other potentially interested stakeholders on October 3, 2014. The email contained an electronic copy of the Transition Plan and information on how to comment.
 - A legal notice was also published in four Idaho newspapers, it is copied below.
 - Finally an electronic copy of the Transition Plan was also emailed to four advocacy groups in Idaho. They were asked to share the plan and the information about the comment period with any individual their organization works with who may be interested and to post the link to the Idaho HCBS website on their website if appropriate.

Legal Notice

The Idaho Department of Health and Welfare (IDHW) hereby gives notice that it intends to post the Idaho State Transition Plan for Home and Community Based Services (HCBS) on October 3, 2014. As required by 42 CFR § 441.301(c)(6), IDHW will provide at least a 30-day public notice and comment period regarding the transition plan prior to submission to CMS. Comments will be accepted through November 2, 2014. IDHW will then modify the plan based on comments and submit the transition plan to CMS for review and consideration. The draft transition plan will be

posted at www.HCBS.dhw.idaho.gov and copies will be available at all IDHW regional offices as well as at the Medicaid Central Office for pick up.

Comments and input regarding the draft transition plan may be submitted in the following ways:

E-mail: HCBSSettings@dhw.idaho.gov

Written: Comments may be sent to the following address:

HCBS

Division of Medicaid

P.O. Box 83720

Boise, ID 83720-0009

Fax: (208) 332-7286

Voicemail Message: 1-855-249-5024

The draft transition plan is available for public comment from October 3, 2014, through November 2, 2014. All comments received about the HCBS requirements will be reviewed and summarized. The summary of comments in addition to a summary of modifications made in response to public comment will be added to the Statewide Transition Plan. In cases where the state's determination differs from public comment, the additional evidence and rationale the state used to confirm the determination will be added to the Transition Plan as well.

11. The updated transition plan will be posted at www.HCBS.dhw.idaho.gov once it is finalized and submitted to CMS. The state will ensure that the transition plan is posted and available for review for the duration of the transition period. Idaho Medicaid's Central Office will retain all documentation of the state's HCBS requirements gap analysis, draft transition plan, public comments, and final transition plan.

3b. Summary of Public Comments

To be completed after initial comment period is over.

3c. Summary of Modifications Made Based on Public Comments

To be completed after initial comment period is over.