Idaho State Transition Plan

Coming Into Compliance with HCBS Setting Requirements:

Public Notice and Request for Comment

Posted for Public Comment (v1): October 3, 2014
Through November 2, 2014
Posted for Public Comment (v2): January 23, 2015
Through February 22, 2015
Submitted to CMS and reposted as revised: March 13, 2015

Posted for Public Comment (v3): September 11, 2015
Through October 12, 2015

Contact: Michele Turbert, Project Manager, Medicaid 208-364-1946

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 (HCBS) Settings Transition Plan.

Transition Plan Introduction

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 Idaho to submit a Transition Plan for all the state's 1915(c) waiver and 1915(i) HCBS state plan programs. Idaho does not have a 1915(k) waiver. Copies of the waivers can be viewed at www.healthandwelfare.idaho.gov.

The web addresses and links to the relevant waivers and to IDAPA are provided below:

1915(i) services in the Standard Plan:
http://www.healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/StandardPlan.pdf

Aged and Disabled Waiver (A&D):
http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/AandDWaiver.pdf

Idaho Developmental Disabilities Waiver, (Adult DD):
http://healthandwelfare.idaho.gov/Portals/0/Medical/DD%20Waiver.pdf
Children's Developmental Disabilities Waiver, (Children's DD):
http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/ChildrensDD_Waiver.pdf

Act Early Waiver:
http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/ActEarlyWaiver%20.pdf

The State Plan:
http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/EnhancedBenchmark.pdf

IDAPA – Medicaid Basic Plan Benefits:
http://adminrules.idaho.gov/rules/current/16/0309.pdf

IDAPA - Medicaid Enhanced Plan Benefits:
http://adminrules.idaho.gov/rules/current/16/0310.pdf

IDAPA – Rules Governing Certified Family Homes
http://adminrules.idaho.gov/rules/current/16/0319.pdf

IDAPA - Residential Care or Assisted Living Facilities
http://adminrules.idaho.gov/rules/current/16/0322.pdf

IDAPA – Developmental Disabilities Agencies (DDA)
http://adminrules.idaho.gov/rules/current/16/0321.pdf

IDAPA – Rules Governing Residential Habilitation Agencies
http://adminrules.idaho.gov/rules/current/16/0417.pdf

The following Transition Plan sets forth the actions Idaho will take to operate all applicable HCBS programs in compliance with the final rules. Idaho submitted its Transition Plan to CMS in March 2015. More information can be found by clicking on this link to the CMS website or by typing the following web address into the browser: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html.

Copies of the Transition Plan 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 between September 11, 2015, and October 12, 2015.

Public Comment Submission Process

The state of Idaho, Department of Health and Welfare, Division of Medicaid is seeking public input on the Transition Plan. Idaho has already utilized two public input periods before submitting the Transition

Plan to CMS in March, 2015. The first comment period was from October 3, 2014, through November 2, 2014. The second comment period was from January 23, 2015, through February 22, 2015. Version 3 of the plan will be posted from September 11, 2015, through October 12, 2015. Public comments will be summarized, changes made as needed, and the Statewide Transition Plan will then be resubmitted to CMS by October 23, 2015.

Comments for this comment period must be submitted no later than October 12, 2015. Comments and input regarding the 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: 1(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 from the first two comment periods were tracked and summarized. The summary of comments and a summary of modifications made to the Transition Plan in response to the public comments are included in this document.

A summary of comments as well as a summary of modifications made to the Transition Plan in response to the third public comment period will be added following the closing of that comment period. 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.

Transition Plan Summary

Idaho completed a preliminary analysis of its residential HCBS settings in late summer of 2014. This analysis identified program areas where the new regulations on residential settings are currently 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 completing them.

Idaho completed a preliminary analysis of its non-residential HCBS service settings in December 2014. This analysis identified areas where the new regulations on non-residential services are supported in Idaho as well as areas that will need to be strengthened in order to align Idaho's HCBS non-residential 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 completing them.

States must determine whether settings have the qualities and characteristics of an institutional setting as described by CMS' final HCBS rule. Idaho completed the analysis of all HCBS provider owned or controlled residential settings against two of the three characteristics of an institution in the fall of 2014. There are no residential settings that are in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution.

Idaho has now completed its assessment of non-residential service settings against two of the three characteristics of an institution to ensure they are not in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. There are no non-residential service settings that meet either of these first two characteristics of an institution.

Idaho has not yet completed its assessment of residential or non-residential service settings against the third characteristic of an institutional setting, which is that the setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. The assessment of all settings against this third characteristic will occur in 2017, when Idaho begins its assessment of all HCBS settings against the setting requirements.

At this point in time Idaho has no plans to request the heightened scrutiny process for any HCBS setting.

Idaho's plan for assessing and monitoring all settings for all requirements, including community integration versus isolation, is contained within Section 2 of the Transition Plan. Additional administrative rule (IDAPA) support for the HCBS requirements is expected to be promulgated during the 2016 legislative session and become effective July 1, 2016. Assessment of settings is expected to be completed by December 2017. A preliminary plan for provider remediation and relocation of impacted participants is included within the Statewide Transition Plan.

The state has archived all versions of the Transition Plan and will ensure that the archived versions along with the most current version of the Transition Plan remain posted on the state's HCBS webpage and available for review for the duration of the state's transition to full compliance.

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Overview

The intention of the home and community-based services (HCBS) rule is to ensure 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 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 (A&D) Waiver, the Idaho Developmental Disabilities (DD) Waiver, the Act Early Waiver, the Children's DD Waiver, and the 1915(i) program for children and adults with developmental disabilities. In addition, Idaho has elected to include State Plan Personal Care Services provided in residential assisted living facilities (RALFS) and certified family homes (CFHs) within the purview of Idaho's analysis and proposed changes in response to the new regulations.

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 2014 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 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 provide input regarding the new regulations and Idaho's plans for transitioning into full compliance. They are described in more detail in throughout this document.

The Transition Plan includes:

- A description of the work completed to date to engage stakeholders in this process
- A gap analysis of existing support for the new HCBS regulations
- A plan for assessment and monitoring of all residential and non-residential service settings
- Initial plans for remediation of providers and relocation for impacted participants
- A timeline for remaining activities to bring Idaho into full compliance
- A summary of public comments
- An index of changes made in version three of the Transition Plan

The state received comments from CMS on the Statewide Transition Plan on August 10, 2015, in the form of a letter. The state has since developed responses to the comments and also incorporated changes into the Transition Plan to address concerns identified. The CMS letter, along with the state's responses, has been posted on the state's webpage,www.HCBS.dhw.idaho.gov. They can be found under the *Resources* tab on the right hand side of the home page.
Additional changes to the body of this Transition Plan (v3) were made prior to it being posted on September 11, 2015. These changes incorporate updated information; include new details; and, in some instances, add clarifying information. All changes are noted in the Index of Changes (Attachment 4).

Section 1: Results of Idaho Medicaid's Initial Analysis of Settings

Idaho completed a preliminary gap analysis of its residential HCBS settings in late summer of 2014. Idaho completed a preliminary gap analysis of its non-residential HCBS settings in December 2014. The gap analysis included an in-depth review of state administrative rule and statute, Medicaid waiver and state plan language, licensing and certification requirements, Medicaid provider agreements, service definitions, administrative and operational processes, provider qualifications and training, quality assurance and monitoring activities, reimbursement methodologies, and person-centered planning processes and documentation. Please refer to the links provided in the Transition Plan Introduction for access to rule and waiver language. This analysis identified areas where the new regulations 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 results of the analysis of residential settings were shared with stakeholders via a WebEx meeting on September 16, 2014. The results of the analysis of non-residential settings were shared with stakeholders via a WebEx meeting on January 14, 2015. The WebEx presentations and audio recordings were then posted on the Idaho HCBS webpage. This preliminary analysis has informed the recommendation to develop several changes to rule, operational processes, quality assurance activities, and program documentation.

Below is an exhaustive list of all HCBS administered by Idaho Medicaid, the corresponding category for each service, and the settings in which the service can occur. This chart is intended to illustrate all the service settings that exist in Idaho's HCBS system. Settings that are listed as "in-home" are presumed to meet HCBS compliance, as these are furnished in a participant's private residence. Settings indicated as "community" are also presumed to meet the HCBS qualities, as they are furnished in the community in which the participant resides. Quality reviews of services and participant service outcome reviews will ensure that providers do not impose restrictions on HCBS setting qualities in a participant's own home or in the community without a supportive strategy that has been agreed to through the person-centered planning process.

Adult DD Waiver Services

Service Description	Applicable HCBS Qualities	Service Settings
Adult Day Health	Non-residential	• Adult Day Health Center • Community
Behavior Consultation/Crisis Management	Non-residential	• Home • Community • Adult Day Health Center • Developmental Disability Agency (DDA) Center • Certified Family Home
Chore Services	Non-residential	• Home
Environmental Accessibility Adaptations	Non-residential	• Home
Home Delivered Meals	Non-residential	• Home

Non-medical Transportation	Non-residential	• Community
Personal Emergency Response System	Non-residential	• Home
Residential Habilitation – Certified Family Home	Residential – Provider Owned	• Certified Family Home
Residential Habilitation – Supported Living	Non-residential	• Home
Respite	Non-residential	• Home • Community • Adult Day Health Center • DDA Center • Certified Family Home
Skilled Nursing	Non-residential	• Home • Community • Adult Day Health Center • DDA Center • Certified Family Home
Specialized Medical Equipment and Supplies	Non-residential	• Home
Supported Employment	Non-residential	• Community
Developmental Therapy	Non-residential	• Home • Community • DDA Center
Community Crisis Supports	Non-residential	• Home • Community • Certified Family Home • Hospital
Supports for Self Direction		
Community Support Services	• Non-residential • Residential – Provider Owned	• Home • Community • Adult Day Health Center • DDA Center • Certified Family Home
Financial Management Services	Non-residential	• Home
Support Broker Services	Non-residential	• Home

A&D Waiver Services

Service Description	Applicable HCBS Qualities	Service Settings
Adult Day Health	Non-residential	• Adult Day Health Center • RALF • DDA Center
Day Habilitation	Non-residential	• DDA Center • Community
Homemaker	Non-residential	• Home
Residential Habilitation	Non-residential	• Home
Respite	Non-residential	• Home • RALF • Certified Family Home
Supported Employment	Non-residential	• Home
Attendant Care	Non-residential	• Home • Community
Adult Residential Care	Residential – Provider Owned	• RALF • Certified Family Home
Chore Services	Non-residential	• Home
Companion Services	Non-residential	• Home
Consultation	Non-residential	• Community
Environmental Accessibility Adaptations	Non-residential	• Home
Home Delivered Meals	Non-residential	• Home
Non-medical Transportation	Non-residential	• Community
Personal Emergency Response System	Non-residential	• Home
Skilled Nursing	Non-residential	• Home
Specialized Medical Equipment and Supplies	Non-residential	• Home

Children's HCBS Services

Service Description	Applicable HCBS Qualities	Service Settings
Family Education	Non-residential	• Home • Community • DDA Center
Habilitative Supports	Non-residential	• Home • Community • DDA Center
Respite	Non-residential	• Home • Community • DDA Center
Crisis Intervention	Non-residential	• Home • Community • DDA Center
Family Training	Non-residential	• Home • Community • DDA Center
Habilitative Intervention	Non-residential	• Home • Community • DDA Center
Interdisciplinary Training	Non-residential	• Home • Community • DDA Center
Therapeutic Consultation	Non-residential	• Home • Community • DDA Center
Supports for Self Direction		
Community Support Services	Non-residential	• Home • Community • DDA Center
Financial Management Services	Non-residential	• Home
Support Broker Services	Non-residential	• Home

1a. Gap Analysis of Residential Settings

Idaho Medicaid furnishes HCBS services in two types of provider owned or controlled residential settings: RALFs and CFHs. The results of Idaho's analysis of these residential settings is summarized below, including an overview of existing support for each regulation. The state has included, where applicable, the full IDAPA citations to identify where IDAPA supports the HCBS requirement, in addition to indicating if IDAPA is silent. The state did not identify any IDAPA provision that conflicts with the HCBS

requirements. Additionally, the chart includes preliminary recommendations on how to transition these settings into full compliance with the new regulations. Please note that the analysis of existing support for each new regulation is only the first step in the assessment process. It has been used to identify where Idaho lacks documented support for the setting quality requirements. Idaho understands that more work is necessary to complete a full assessment of settings. *Section Two* of this document identifies the work remaining to complete a thorough assessment. That process includes soliciting input from individuals who live in and use these settings, provider self- assessment, as well as on-site validation of compliance.

Provider Owned or Controlled Residential Settings Gap Analysis

Federal Requirement: *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:*		**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 (IDAPA 16.03.19.170.02, 16.03.19.170.07, 16.03.19.200.11) 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 (IDAPA 16.03.22.001.02, 16.03.22.250.01, 16.03.22.151.03).
	Gap	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS".	
	Remediation	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	
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". IDAPA is silent.	
	Remediation	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho rule (IDAPA 16.03.19.200.11), provider agreements, and the CFH Provider Manual support that a CFH should provide opportunities for participation in community life.	Rule (IDAPA 16.03.22.250, 16.03.22.151) supports that RALFs must facilitate normalization 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	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10.	

Federal Requirement:		Analysis of Idaho's Residential Settings	
		Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho rule (IDAPA 16.03.19.200.05, 16.03.19.275.01), the CFH Provider Manual, and the provider agreement support the participant's right to manage funds.	Rule (IDAPA 16.03.22.550.05) 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	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	
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 (IDAPA 16.03.19.200.08) 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 (IDAPA 16.03.22.320.07, 16.03.22.550) 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	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Support	Department processes support that participants must sign the service plan that includes documentation that choice of residential setting was offered. 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.	Department processes support that participants must sign documentation that the choice of a residential setting was offered. 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.
	Gap	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. IDAPA is silent.	

Federal Requirement:		Analysis of Idaho's Residential Settings	
	Remediation	Idaho will strengthen protocols to fully align with the requirement and enhance existing quality assurance activities to ensure compliance. Idaho will incorporate the HCBS requirement into IDAPA 16.03.10 to ensure that service plans 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.	
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	Support	These participant rights are protected and supported in Idaho statute and licensing and certification rule (IDAPA 16.03.19.200.01, 16.03.19.200.03, 16.03.19.200.07,16.03.22.550.02-03, 16.03.22.550.10, 16.03.22.153).	
	Gap	None	
	Remediation	None	
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.	Support	Participants' independence is supported in state statute (Idaho Statute, Title 39, Chapter 35 (39-3501) and licensing and certification rule (IDAPA 16.03.19.200.11, 16.03.19.170.02) Previously established CFH resident rights also support this requirement.	Participants' independence and autonomy are supported in licensing and certification rule (IDAPA 16.03.22.550.15).
	Gap	The state lacks support for ensuring that participants' activities are not regimented.	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.
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure compliance.	
9. Individual choice regarding services and supports, and who provides them, is facilitated.	Support	Rule(IDAPA 16.03.19.250.04, 16.03.19.200.08, 16.03.22.320.07, 16.03.22.550.12) supports that participant choices regarding services and supports, and who provides them, are facilitated.	
	Gap	None	
	Remediation	None	
10. The unit or room is a specific physical place that can be owned, rented, or occupied under another 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	Support	Idaho tenancy laws require a 3-day eviction notice by the landlord, as described in Title 6, Chapter 3 of Idaho Statute. Administrative rules governing Certified Family Homes (IDAPA 16.03.19.260, 16.03.19.200.10) require that there be a 15-day minimum notice of transfer or discharge and that the timeframes and criteria for transfer be described in the Admission Agreement. By employing a minimum 15-day notice of transfer, CFH guidelines are more lenient than Idaho tenancy laws.	Rule (IDAPA 16.03.22.550.20, 16.03.22.221) supports that participants are given 30-day notice of discharge/transfer, which is greater than the three-day notice required under Idaho landlord tenant law (Title 6, Chapter 3 of Idaho Statute).

Federal Requirement:		Analysis of Idaho's Residential Settings	
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.	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 (IDAPA 16.03.19.600.02, 16.03.19.200.01, 16.03.22.550.02) 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	Incorporate HCBS requirement into IDAPA 16.03.10. 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. IDAPA is silent.	
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10. 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 (IDAPA 16.03.22.550) and Idaho Statute support that individuals have the right to furnish and decorate their living area.
	Gap	IDAPA is silent for CFHs.	
	Remediation	None	
14. Individuals have the freedom and support to control their own schedules and activities.	Support	Rule (IDAPA 16.03.19.200.11, 16.03.22.151.03, 16.03.22.550.15) 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	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure compliance.	
15. Individuals have access to food at any time.	Support	None found	
	Gap	The state lacks support for ensuring that individuals have access to food at any time. IDAPA is silent.	
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10. 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 (IDAPA 16.03.19.200.06) and the Residents Rights Policy and Notification Form support that individuals are able to have visitors of their choosing at any time.	Idaho Statute (39-3316) 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 (IDAPA 16.03.19.004, 16.03.19.700) and the Residents Rights Policy and Notification Form support that the setting must be physically accessible to the individual.	Rule (IDAPA 16.03.22.250.07) 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 residential 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 relocation of participants. Proposed plans to complete a full assessment are outlined in *Section Two*. Medicaid must first enact regulatory changes to allow enforcement and then complete the assessment of individual settings. The assessment will occur in 2017.

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 CFH. Residential habilitation services provided to the participant in their own home are called "supported living" and are provided by residential habilitation agencies. Supported living services can either be provided hourly or on a 24-hour basis (high or intense supports).

As part of Idaho's outreach and collaboration efforts, Medicaid initiated meetings with supported living service providers in September 2014. The goal of these meetings was to ensure that supported living providers understood the new HCBS setting requirements, how the requirements will apply to the work that they do, and to address any questions or concerns this provider group may have. During these meetings, providers expressed concern regarding how the HCBS setting requirements would impact their ability to implement strategies to reduce health and safety risks to participants receiving high and intense supports in their own homes. Because of these risk reduction strategies, supported living providers are concerned that they will be unable to ensure that all participants receiving supported living services have opportunities for full access to the greater community and that they are afforded the ability to have independence in making life choices.

Since our initial conversations with residential habilitation agency providers the state has addressed provider concerns by obtaining clarification from CMS and publishing draft HCBS rules. Our goal is that through individualized supportive strategies created by the participant and their person-centered planning team, agencies will support participants in integration, independence, and choice while maintaining the health, safety, dignity, and respect of the participant and the community.

Although the HCBS regulations allow states to presume the participant's private home meets the HCBS setting requirements, the state will enhance existing quality assurance and provider monitoring activities to ensure that participants retain decision-making authority in their home. Additionally, the state is continuing to analyze the participant population receiving intense and high supported living and how the HCBS requirements impact them.

1b. Initial Analysis of Settings Presumed to be Institutional

The Centers for Medicare and Medicaid Services has identified three characteristics of settings that are 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 has completed its assessment of all settings against the first two characteristics of an institution. There are no settings where an HCBS participant lives or receives services that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment. Further, there are no settings on the grounds of or immediately adjacent to a public institution. Idaho will assess all settings against the third characteristic of an institution as part of its larger assessment effort in 2017. At this point in time Idaho has no plans to request the heightened scrutiny process for any HCBS setting.

During Idaho's analysis of non-residential service settings the state did identify that a very small number of children receiving developmental disability (DD) waiver services are living in residential environments that are considered by Idaho rule to be institutions. These settings are referred to in Idaho as children's residential care facilities (Children's RCFs). The state is currently exploring options on a case-by-case basis for continuing to meet the needs of these children while in these settings. The state will also establish a process to prevent HCBS funding from being utilized in the future for children residing in an RCF. The state intends for all children receiving DD waiver services to be living in compliant settings by the compliance deadline of March 2019.

Analysis of Residential Settings Presumed to be Institutional

Idaho Medicaid supports two residential settings that needed to be analyzed against the criteria established by CMS as presumptively institutional. They are CFHs and RALFs. As of the publication of the Transition Plan (v3), there are no CFHs or RALFs that are in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. Below is a description of the assessment process that led to this conclusion.

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 complete. There are no RALFS that are in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. Below is a description of the assessment process leading to this conclusion.

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 participants 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:

- 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 an HCBS 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 HCBS 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 in Idaho. 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 five 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. Idaho Medicaid understands that while these settings do not meet the criteria of settings presumed to be institutional an enhanced assessment may be necessary 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 an HCBS setting. Medicaid wanted to hear directly from the providers affected on 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.

Finally, Idaho Medicaid determined that the questions used in the survey described above and answered by health facility surveyors are not sufficient to establish if a particular residential setting has the effect of isolation. As a result, Idaho's assessment of the settings against the third characteristic, settings that have the effect of isolating individuals from the broader community is not yet complete.

Analysis of Non-Residential Settings Presumed to be Institutional

As of the publication of the Transition Plan (v3), Idaho's assessment of non-residential HCBS settings against two of the characteristics of settings presumed to be institutional is complete. There are no non-residential HCBS settings that are in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. Below is a description of the assessment process that led to this conclusion.

Idaho's non-residential HCB services by definition must occur in a participant's private residence, the community, in developmental disabilities agencies (DDAs), or in standalone adult day health centers. A setting in a participant's private residence or the community is presumed to be compliant with all HCBS requirements. For the non-residential service setting analysis, DDAs and adult day health centers were the two setting types examined.

To assess the DDAs against the first two qualities of an institution, (in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution) Medicaid solicited the help of staff responsible for completing the licensing and certification of those settings. A list of all DDAs was created with two questions tied to the two above mentioned characteristics of an institutional setting. Licensing and certification staff who routinely visit those settings then answered the two questions about each specific DDA. No DDAs were found to be in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution.

To assess adult day health centers against those two characteristics, the Idaho Department of Health and Welfare staff responsible for the quality assurance activities for all standalone adult day health centers were asked to identify any centers in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. No adult day health centers were found to be in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution.

Idaho will assess all settings against the third characteristic of an institution as part of its larger assessment effort in 2017. That characteristic is: Does this setting have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS? Details of the assessment process are outlined in Section 2.

At this point in time Idaho does not intend to request the heightened scrutiny process for any HCBS setting.

Idaho Standards for Integration in All Settings

Idaho has worked extensively with providers, advocates, L&C staff and Medicaid staff to understand what qualifies as appropriate community integration in residential and congregate non-residential service settings.

Initially Idaho intended to create standards for integration for both residential and non-residential HCBS settings. The goal was to ensure that stakeholders, providers, quality assurance/assessment staff and participants, understood what must occur in HCB service settings to meet the integration and choice requirements of the new regulations. After many meetings with stakeholders, standards were determined for residential settings. However, that task was much more of a challenge for non-residential service settings. The services themselves are variable and many are clinical in nature. Idaho organized a series of meeting with stakeholders to discuss what standards for non-residential service settings should be. Ultimately it was determined that instead of having fixed standards for integration, a toolkit will be developed for providers that includes guidelines, instructions for completing a self-

assessment, review criteria and best practices for integration. The guidance will be incorporated into all trainings for staff and providers. It will also be incorporated into the setting assessment to be completed in 2017 and be part of ongoing monitoring of these settings. Attachments 1 and 2 have thus been removed from the Transition Plan (v3). It is the state's intention to ensure that any self-assessment tool or documents developed as part of the toolkit appropriately assess if participants are or are not given the opportunity for community participation to the extent that they desire and in manner that they desire in that setting.

Integration relies heavily on interaction with peers. It is the state's intention to define "peers" as including individuals with and without disabilities. The state will make this clear in administrative rules and in any guidance materials it provides.

1c. Gap Analysis of Non-Residential Service Settings

Idaho completed a preliminary gap analysis of its non-residential service settings in December 2014. The results of Idaho's analysis of its non-residential settings are summarized below, including an overview of existing support for each regulation. The state has included, where applicable, the full IDAPA rule citation(s) to identify where IDAPA supports the HCBS requirement, in addition to indicating if IDAPA is silent. The state did not identify any IDAPA rule that conflicts with the HCBS requirements. Additionally the chart includes preliminary recommendations to transition these settings into full compliance with the new regulations. Please note that the analysis of existing support for each new regulation is only the first step in the assessment process. It has been used to identify where Idaho lacks documented support for the setting quality requirements. Idaho understands that more work is necessary to complete a full assessment of settings. *Section Two* of this document identifies the work remaining to complete a thorough assessment. That process includes soliciting input from participants receiving services, provider self- assessment, as well as on-site validation of compliance.

Non-Residential Service Settings Gap Analysis: Children's Developmental Disabilities Services

Federal Requirement *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:*		***Habilitative Supports***	***Habilitative Intervention***
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 rule (IDAPA 16.03.10.521.18, 16.03.10.683.04.b, and 16.03.10.683.04.c.ii.) allows habilitative intervention to be provided in three different settings. Idaho rule supports that service settings are integrated and facilitate community access when provided in the home and community.	
	Gap	The state lacks quality assurance/monitoring activities to ensure this requirement is met. The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	
	Remediation	Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring. Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."	
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	None	Habilitative intervention providers have no authority under IDAPA to control a participant's ability to seek employment.
	Gap	IDAPA is silent	The state lacks quality assurance/monitoring activities to ensure this requirement is met. The state lacks rule support for this requirement. IDAPA is silent. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."
	Remediation	This service benefit is for children who would not be seeking employment due to their age.	Enhance existing quality assurance/monitoring activities and data collection for monitoring. Incorporate HCBS requirement into IDAPA 16.03.10. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."

Federal Requirement *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:*		***Habilitative Supports***	***Habilitative Intervention***
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho rule (IDAPA 16.03.10.521.18, 16.03.10.683.04.b, and 16.03.10.683.04.c.ii.) supports that service settings include opportunities to engage in community life when services are provided in the home and community.	
	Gap	The state lacks quality assurance/monitoring activities to ensure this requirement is met The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	
	Remediation	Enhance existing quality assurance/monitoring activities and data collection for monitoring. Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."	
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Providers have no authority to control participant resources.	
	Gap	The state lacks quality assurance/monitoring activities to ensure this requirement is met. The state lacks rule support for this requirement. IDAPA is silent. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	
	Remediation	Enhance existing quality assurance/monitoring activities and data collection for monitoring. Incorporate HCBS requirement into IDAPA 16.03.10. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."	
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho rule (IDAPA 16.03.10.521.18, 16.03.10.683.04.b, and 16.03.10.683.04.c.ii.) supports that service settings include opportunities to receive services in the community when services are provided in the home and community.	
	Gap	The state lacks quality assurance/monitoring activities to ensure this requirement is met. The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	

Federal Requirement *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:*		***Habilitative Supports***	***Habilitative Intervention***
	Remediation	Enhance existing quality assurance/monitoring activities and data collection for monitoring. Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."	
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Support	Providers have no capacity to control the participant's selection of the residential setting.	
	Gap	IDAPA is silent.	IDAPA is silent.
	Remediation	It is assumed that children are residing at home with their parents (or legal guardian) rather than in residential settings.	It is assumed that children are residing at home with their parents (or legal guardian) rather than in residential settings.
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	Support	Idaho rule (IDAPA 16.03.21.905.01, 16.03.21.905.02, 16.03.21.905.03. a-d) supports that an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint are protected (licensing and certification rules). These rules are monitored by L&C.	
	Gap	None	None
	Remediation	None	None
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.	Support	Idaho rule (IDAPA 16.03.10.526.06) supports that an individual's initiative, autonomy, and independence in making life choices is facilitated in the community.	Idaho rule (IDAPA 16.03.10.661.09, 16.03.10.663.02) allows habilitative intervention to be provided in three settings. Idaho rule supports that an individual's initiative, autonomy, and independence in making life choices is facilitated in the home and community. However, standards for choice and autonomy in a center/congregate setting are not specified.
	Gap	The state lacks quality assurance/monitoring activities to ensure this requirement is met.	The state lacks quality assurance/monitoring activities to ensure this requirement is met. The state lacks standards for integration for services provided in a congregate setting.

Federal Requirement *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:*		***Habilitative Supports***	***Habilitative Intervention***
	Remediation	Enhance and quality assurance/monitoring activities and data collection for monitoring. Incorporate HCBS requirement into IDAPA 16.03.10.	Enhance and quality assurance/monitoring activities and data collection for monitoring. Incorporate HCBS requirement into IDAPA 16.03.10. Develop standards for congregate settings.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	Support	Idaho rule (IDAPA 16.03.10.526.06) supports that an individual has the choice of services. The state lacks regulation that supports choice of who provides them. This requirement is monitored through the Family and Community Services Quality Assurance assessment.	
	Gap	The state lacks regulation that supports choice of who provides chosen services.	The state lacks regulation that supports choice of who provides chosen services.
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10.	Incorporate HCBS requirement into IDAPA 16.03.10.

Non-Residential Service Settings Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Services

Analysis of Adult Day Health (A&D and Adult DD Waiver)			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.326.01, 16.03.10.703.12) supports that service settings are integrated and facilitate community access. However, integration standards for center/congregate are not specified.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
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.	Idaho rule (IDAPA 16.03.10.651.03, 16.03.10.515.03, 16.03.10.514.02(c)) supports that service settings allow opportunities to seek employment and work in competitive, integrated settings.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.326.01, 16.03.10.703.12) supports that service settings include opportunities to engage in community life when services are provided in the home and community. However, integration standards for center/congregate are not specified.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Adult Day Health(A&D and Adult DD Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	There is no support for this requirement for this service category. However, providers have no authority in IDAPA to influence a participant's control of personal resources.	The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.326.01, 16.03.10.703.12) and the provider agreement support that service settings include opportunities to receive services in the community.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Idaho rule (IDAPA 16.03.10.328.04, 16.03.10.721.07, 16.03.10.728.07) supports that services/settings are selected by the participant based on their needs and preferences Adult Day Health providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply.	None	N/A
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	The Idaho Medicaid Provider Agreement and Adult Day Health additional terms signed by service providers support an individual's rights related to privacy and respect.	Dignity and freedom from coercion and restraint are not specifically discussed related to Adult Day Health providers. The state lacks service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Adult Day Health (A&D and Adult DD Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
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.	The Idaho Medicaid Provider Agreement and the Adult Day Health Additional Terms that are signed by service providers support participant empowerment, choice and independence. However, standards for choice and autonomy in center/congregate settings are not specified.	Participant autonomy of choices is not specifically discussed related to Adult Day Health providers. The state lacks service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks standards for integration for services provided in a congregate setting. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards for congregate settings. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	The Idaho Medicaid Provider Agreement and the Adult Day Health Additional Terms that are signed by service providers supports that participant choice is facilitated. Waiver and operational requirements also enforce participant choice regarding services and supports.	IDAPA is silent.	N/A

Analysis of Community Crisis Supports (Adult DD 1915(i))			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.513.11) supports that service settings are integrated and facilitate community access.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state allows for crisis services to take place in an institutional setting. The state lacks sufficient regulatory support for this requirement. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Do not allow service in an institutional setting. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Community Crisis Supports (Adult DD 1915(i)) continued			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.513.11) supports that service settings allow opportunities to see employment and work in competitive, integrated settings. The service functions to prevent loss of employment.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.513.11)supports that service settings include opportunities to engage in community life when services are provided in the home and community. This service functions to prevent a participant from losing access to community life because of a crisis.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state allows for crisis services to take place in an institutional setting. The state lacks sufficient regulatory support for this requirement. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Do not allow service in an institutional setting. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	There is no support for this requirement for this service category. However, providers have no authority in IDAPA to influence a participant's control of personal resources.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks sufficient service specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.513.11) supports that service settings include opportunities to receive services in the community. This service functions to prevent a participant from losing access to community life because of a crisis.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state allows for crisis services to take place in an institutional setting. The state lacks sufficient regulatory support for this requirement. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Disallow service from being allowed in an institutional setting. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Community Crisis Supports (Adult DD 1915(i)) continued			
Requirement	**Support**	**Gap**	**Remediation**
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Idaho rule (IDAPA 16.03.10.721.07, 16.03.10.728.07) supports that services/settings are selected by the participant based on their needs and preferences. Community crisis providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply.	None	N/A
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	The Idaho Medicaid Provider Agreement and Adult Day Health Additional Terms that are signed by service providers support an individual's rights related to privacy and respect.	Dignity and freedom from coercion and restraint are not specifically discussed related to Adult Day Health providers. The state lacks service-specific regulatory support to enforce this requirement. The state lacks quality assurance/monitoring activities to ensure this requirement is met. IDAPA is silent.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
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.	There is no support for this requirement for this service category.	The state lacks sufficient rule support for this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Do not allow service in an institutional setting. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	The Idaho Medicaid Provider Agreement signed by service providers supports that participant choice is facilitated. Waiver and operational requirements also enforce participant choice regarding services and supports.	IDAPA is silent.	N/A

Analysis of Day Habilitation (A&D Waiver)			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule supports that service settings are integrated and facilitate community access. However, this requirement is not supported specifically for Day Habilitation service settings.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.	Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
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.	This requirement is not supported specifically for Day Habilitation service settings. However, providers have no authority to prevent a participant from seeking employment or working in a competitive, integrated setting.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Day Habilitation (A&D Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule supports that service settings include opportunities to engage in community life when services are provided in the home and community. However, this requirement is not supported specifically for Day Habilitation service settings.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.	Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10.
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	This requirement is not supported specifically for Day Habilitation service settings. However, providers have no authority to control participant resources.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated. The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	This requirement is not supported specifically for Day Habilitation service settings. However, providers have no authority to impose barriers to participants seeking to receive other services in the community.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated. The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Day Habilitation (A&D Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Idaho rule (IDAPA 16.03.10.328.04) supports that services/settings are selected by the participant based on their needs and preferences Day Habilitation providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply.	None	N/A
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	A&D Waiver provider training and the Idaho Medicaid Provider agreement support respect of participant privacy, dignity, respect, and freedom from coercion and restraint.	The state lacks service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
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.	This requirement is not supported specifically for Day Habilitation service settings.	The state lacks service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.	Develop standards for congregate settings. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	Waiver and operational requirements support individual choice regarding services and supports.	IDAPA is silent.	N/A

Analysis of Developmental Therapy (Adult DD 1915(i))			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.651.01, 16.03.10.651.01.d, 16.03.10.651.01.e, 16.03.10.653.04.e, 16.03.21.520, 16.03.21.900.03, 16.03.21.905.02) supports that service settings are integrated and facilitate community access. However, integration standards for center/congregate are not specified.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
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.	Idaho rule (IDAPA16.03.10.514.02.c, 16.03.10.515.03, 16.03.10.651.03) supports that service settings allow opportunities to see employment and work in competitive, integrated settings.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.651.01, 16.03.10.651.01.d, 16.03.10.651.01.e, 16.03.10.653.04.e, 16.03.21.520, 16.03.21.900.03, 16.03.21.905.02) supports that service settings include opportunities to engage in community life when services are provided in the home and community. However, integration standards for center/congregate are not specified.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards for congregate settings. Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Developmental Therapy (Adult DD 1915(i)) continued			
Requirement	**Support**	**Gap**	**Remediation**
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.21.905.01.g) supports that the participant has the right to retain and control their personal possessions.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.651.01.d, 16.03.10.653.04.e, 16.03.21.900.03) supports that service settings include opportunities to receive services in the community.	The state lacks standards for integration for services provided in a congregate setting. The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Idaho rule (IDAPA 16.03.10.721.07, 16.03.10.728.07) supports that services/settings are selected by the participant based on their needs and preferences Developmental therapy providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply.	None	N/A
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	Idaho rule (IDAPA 16.03.21.101.02.g, 16.03.21.410.02, 16.03.21.905.01, 16.03.21.905.02, 16.03.21.915, 16.03.21.915.10, 16.03.21.915.11) supports that an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	None	N/A

Analysis of Developmental Therapy (Adult DD 1915(i)) continued			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA16.03.10.653.04.e, 16.03.21.900.03, 16.03.21.915.08) supports that an individual's initiative, autonomy and independence in making life choices is facilitated in the home and community. However, standards for choice and autonomy in a center/congregate setting are not specified.	The state lacks standards for integration for services provided in a congregate setting. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards for congregate settings. Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	Idaho rule (IDAPA 16.03.10.653.04.e, 16.03.21.900.03, 16.03.21.915.08) and the provider agreement supports that individual choice is facilitated.	None	N/A
Analysis of Residential Habilitation – Supported Living (A&D and Adult DD Waiver)			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.700, 16.04.17.011.30) supports that service settings are integrated and facilitate community access. The state presumes the participant's private home in which they reside meets the HCBS requirements.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
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.	Idaho rule (IDAPA 16.03.10.514.02.c, 16.03.10.515.03) supports that supported living providers allow opportunities to seek employment and work in competitive, integrated settings.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.514.02) supports that service settings include opportunities to engage in community life when services are provided in the home and community. The state presumes the participant's private home in which they reside meets the HCBS requirements.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."

Analysis of Residential Habilitation – Supported Living (A&D and Adult DD Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.04.17.403) includes requirements for when the residential habilitation agency is the representative payee. The state presumes the participant's private home in which they reside meets the HCBS requirements.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks sufficient regulatory support and monitoring activities to ensure participants retain control of their personal resources when the residential habilitation agency is not the representative payee.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.703.01) supports that service settings include opportunities to receive services in the community. The state presumes the participant's private home in which they reside meets the HCBS requirements.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Idaho rule (IDAPA 16.03.10.328.04, 16.03.10.513.08) supports that service settings are selected by the participant based on their needs and preferences. The state presumes the participant's private home in which they reside meets the HCBS requirements.	The state lacks sufficient regulatory support and monitoring activities to ensure that residential setting options are identified and documented in the person-centered plan.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	Idaho rule (IDAPA16.04.17.405, 16.04.17.402.d) supports an individual's right to privacy, dignity, respect and freedom of restraint.	Freedom of coercion is not specifically discussed related to residential habilitation agency providers. The state lacks service-specific regulatory support to enforce this requirement. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Residential Habilitation – Supported Living (A&D and Adult DD Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.700) and the provider agreement support that services promote independence. The state presumes the participant's private home in which they reside meets the HCBS requirements.	The state lacks sufficient regulatory support and monitoring activities to ensure individual initiative, autonomy and independence in making choices related to daily activities, physical environment and with whom to interact.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	Idaho rule (IDAPA 16.04.17.402.c.) supports the participant's individual choice regarding services and supports, and who provides them, is facilitated.	None	N/A

Analysis of Supported Employment (A&D and Adult DD Waiver)			
Requirement	**Support**	**Gap**	**Remediation**
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.	Idaho rule (IDAPA 16.03.10.703.04) supports that service settings are integrated and facilitate community access.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
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.	Idaho rule (IDAPA 16.03.10.703.04) supports that service settings allow opportunities to seek employment and work in competitive, integrated settings.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.703.04) supports that service settings include opportunities to engage in community life.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	There is no support for this requirement for this service category. However, providers have no authority in IDAPA to influence a participant's control of personal resources.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS." The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.

Analysis of Supported Employment (A&D and Adult DD Waiver) continued			
Requirement	**Support**	**Gap**	**Remediation**
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.703.04) and the provider agreement supports that service settings include opportunities to receive services in the community.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. 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).	Idaho rule (IDAPA 16.03.10.721.07, 16.03.10.728.07) supports that services/settings are selected by the participant based on their needs and preferences. Supported employment providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply.	None	N/A
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	The Idaho Medicaid Provider Agreement signed by service providers supports an individual's rights related to privacy and respect.	Dignity and freedom from coercion and restraint are not specifically discussed related to supported employment providers. The state lacks service-specific regulatory support to enforce this requirement. IDAPA is silent. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
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.	Idaho rule (IDAPA 16.03.10.721, 16.03.10.728.07) and the provider agreement support participant empowerment, choice and independence.	Participant autonomy of choices is not specifically discussed related to supported employment providers. The state lacks service-specific regulatory support to enforce this requirement. The state lacks quality assurance/monitoring activities to ensure this requirement is met.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring.
9. Individual choice regarding services and supports, and who provides them, is facilitated.	Idaho rule(IDAPA 16.03.10.508.17, 16.03.10.513.08) and the provider agreement supports that individual choice is facilitated.	None	N/A

Due to the gaps identified above, Idaho is unable to say at this time how many non-residential 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 relocation of participants. Proposed plans to complete a full assessment are outlined in *Section Two*. Medicaid must first enact regulatory changes to allow enforcement and then complete the assessment of individual settings. The assessment will occur in 2017.

Services Not Selected for Detailed Analysis

Several service categories from Idaho's 1915(c) and State Plan 1915(i) programs did not have gaps related to HCBS setting requirements. The state has determined that many of our HCBS services are highly medical/clinical in nature, self-directed, for the purchase of goods/adaptations, provided by providers who have no capacity to influence setting qualities, or occur in settings which are analyzed elsewhere in the Transition Plan. Therefore, for these services, a detailed analysis was not necessary. This includes the following services:

A&D Waiver	Idaho DD Waiver	Children's DD/ Act Early Waiver	1915(i) State Plan
• Chore Services • Environmental Accessibility Adaptations • Home Delivered Meals • Personal Emergency Response System • Skilled Nursing • Specialized Medical Equipment and Supplies • Non-Medical Transportation • Homemaker • Attendant Care • Companion Services • Consultation • Respite	• Chore Services • Environmental Accessibility Adaptations • Home Delivered Meals • Personal Emergency Response System • Skilled Nursing • Specialized Medical Equipment and Supplies • Non-Medical Transportation • Behavior Consultation/Crisis Management • Self-Directed Community Support Services • Self-Directed Financial Management Services • Self-Directed Support Broker Services • Respite	• Family Education • Crisis Intervention • Family Training • Interdisciplinary Training • Therapeutic Consultation • Family-Directed Community Support Services • Respite	• Family Education • Family-Directed Community Support Services • Respite

Section 2: State Assessment and Remediation Plan

The state is currently moving forward with regulatory changes in IDAPA to support the HCBS setting requirements. Rule changes are expected to become effective July 1, 2016, and providers will be given six months to become fully compliant. Idaho will begin its formal assessment of settings in January of 2017. It is expected to take one year. The state is not waiting until regulatory changes are enacted to prepare staff, participants, and providers for the coming changes or for the assessment activities.

Tasks designed to assist the state in preparing for the assessment are currently underway and others will be completed in 2016. All tasks have been added to the current task lists found below. Activities include operational readiness tasks, materials development, staff training, and participant and provider training and communications, all of which will occur prior to the assessment start date of January 2017. In

addition, there have been numerous training opportunities for providers to date and the HCBS regulations have been shared. Providers have the information they need to begin to make any needed changes to be compliant.

2a. Plan for Assessment and Ongoing Monitoring of Residential and Non-Residential Settings

Idaho Medicaid has developed a preliminary plan for assessment and ongoing monitoring of residential and non-residential settings where HCBS are delivered in order to ensure compliance with the new setting requirements. The proposed constellation of activities is a budget-neutral option that has been approved by Medicaid administration in collaboration with the Division of Licensing and Certification . The plan is divided into two stages: an initial assessment of residential and non-residential settings to determine their current level of compliance and an ongoing system of monitoring those settings to ensure continuous compliance. This approach employs a risk stratification methodology whereby all settings will be initially screened to assess initial compliance and to identify and address those settings most likely to have difficulty meeting the setting requirements. Those least likely to have difficulty meeting the setting requirements will be passively monitored to ensure compliance during the later stage of implementing monitoring activities. This proposal achieves a balanced approach to demonstrating compliance by phasing in cost-neutral changes that will minimize impact to existing Department operations while ensuring Idaho's HCBS participants have an experience that meets the intent of the HCBS regulations for integrated community living.

During the development of the initial assessment plan and plan for on-going monitoring, it was determined that additional resources were needed to effectively manage the proposed operational changes. A full-time position has been used to hire an HCBS coordinator to oversee all HCBS assessment and monitoring activities.

The state will establish an assessment and monitoring oversight committee. Membership on this committee is not yet finalized. This entity will meet with the HCBS Coordinator once a month beginning in August 2016. Responsibilities of the oversight committee will include problem solving for issues related to determination of non-compliance and/or termination of a provider agreement. This group will also be responsible to ensure participants wanting to transition to a new service provider are given the support they need to do so successfully. The committee will address any challenges to the proposed processes for assessment, monitoring, remediation, and/or needed process or program changes.

All RALFs and CFHs serving Medicaid HCBS participants are visited annually by Department staff. The state plans to incorporate assessment of HCBS compliance into the data that is collected during these visits as another mechanism of incorporating initial and ongoing assessment into our existing processes. In addition the state will visit a random sampling of RALFs and CFHs to complete an HCBS-specific compliance assessment during 2017 as part of the overall assessment process.

The assessment and monitoring plan also covers non-residential settings in which providers have the capacity to influence setting qualities. These provider types include:

- Adult Day Health Centers – 53 service sites
- Developmental Disability Agencies – 75 service sites
- Residential Habilitation Agencies – 82 service sites
- Supported Employment Providers – 33 service sites

Data collected during routine site visits, in conjunction with additional assessment information as described below, will be centrally warehoused to permit the Department to identify and cross-reference any trends or problems and will assist Idaho Medicaid in assessing initial and ongoing compliance of all settings. This multifaceted approach allows for a more robust mechanism of assessment than relying solely on one avenue for assessment.

One-Time Assessment

Idaho will implement a one-time assessment process to determine the initial level of compliance with the setting requirements by HCBS providers. That process will begin with the passage of state rule changes to support the HCBS regulations during the 2016 legislative session. Those rules are anticipated to become effective July 1, 2016, and providers will then be permitted six months to come into full compliance. The one-time assessment will be completed by December 2017. The assessment activities will include the following:

- Provider Self-Assessment
  - A provider self-assessment will be sent electronically to all HCBS providers in July 2016. It will identify the HCBS requirements and request providers to identify if they are or are not currently complying with the requirements. If they are not currently compliant they will be asked to provide their plan for coming into full compliance, along with their timeline for doing so. Submission of a completed provider self-assessment will be mandatory. Providers will be given until August 31, 2016, to submit the completed document.

    Full compliance is required by January 1, 2017. Training will be offered to providers prior to the self-assessment being sent out to address any questions providers may have. The training will also address how to develop an acceptable transition plan should their setting not yet be in compliance with the new setting requirements. The state will assess all submitted transition plans. The plan will either be approved or the state will work with the provider to revise it until it is deemed an acceptable plan. If the provider is unable or unwilling to create an acceptable plan to transition to full compliance, that provider will be moved into the remediation process.

- Validation of Provider Self-Assessment
  - Under the oversight of the HCBS Coordinator, quality assurance staff from the BDDS, Family and Children's Services (FACS), and the Bureau of Long Term Care (BLTC) will review provider self assessments that indicate the provider will need a transition plan to come into compliance. Staff will approve provider transition plans based on agreed upon criteria and follow up with the provider to ensure activities identified in the plan are completed on time.

- Rule violations related to HCBS will be identified during existing quality assurance (QA) activity or through participant or Licensing and Certification complaints.
- The Licensing and Certification staff members will be oriented to the HCBS setting qualities and will validate the provider self assessment during routinely scheduled Licensing and Certification surveys. The surveyors will continue to cite providers for violations of requirements that already exist under their purview using existing processes. If Licensing and Certification staff observe violations of other HCBS requirements, these will be reported to Medicaid QA staff to be investigated in the same fashion that other complaints are processed.
- On-site HCBS-specific compliance reviews will be completed the first year of rule implementation on a representative sample of all HCBS providers. This will be a one-time activity to assist with transitioning existing providers to compliance.
- New providers would be expected to comply at the time of Medicaid enrollment and HCBS requirements would be assessed at their six-month review.

- Acknowledgement of Understanding
  - Every service plan development process following rule promulgation in 2016 will include a discussion related to the setting requirements. The participant will be supplied with supporting information about the requirements, including a "These are Your Rights" document. As part of this process participants will also be informed that they can file a complaint if any of the requirements are not met and provided information on how to do so. Both the participant and the provider(s) responsible for implementing the service plan will then be asked to sign an acknowledgement that they have been informed of the new setting requirements and the participant's rights under these regulations. The QA staff will ensure signed documents are retained in the appropriate file using existing QA case file audit processes when applicable.

- Participant Feedback
  - Medicaid will modify existing participant experience measures in the Nurse Reviewer Home Visit Form, Participant Experience Survey, Adult's Service Outcome Review, and Children's Service Outcome Review to include questions that assess qualities of the participant's non-residential settings. Reported violations of HCBS setting requirements will be identified and investigated using the existing quality assurance protocols.
  - Feedback from participants will be reviewed as it becomes available from advocate groups and university research entities. Idaho Medicaid has been and will continue to work closely with the Idaho DD Council and the University of Idaho to support planned participant input activities to be led by the council. Currently the council is conducting face-to-face interviews with 240 participants to determine the existing level of compliance with HCBS requirements in the settings in which they reside and/or receive HCB services. This will serve as a baseline. The process will be repeated after Idaho completes its initial assessment in 2017 to determine, in part, implementation success. Any participant feedback collected in this manner will be provided to Medicaid in an electronic format that allows for data compilation and analysis.

- Medicaid will develop an HCBS-specific participant survey that will be sent to a random sample of participants in January of 2017 asking them to assess the setting in which they are living and/or receiving HCBS against the HCBS requirements. All setting types will be included in the sample. This survey will allow Medicaid to receive feedback from participants regarding setting compliance with the non-residential setting requirements prior to the provider's routinely scheduled quality assurance or licensing review.

Ongoing Monitoring

The ongoing monitoring of non-residential settings for continuous compliance with the HCBS setting requirements will begin after the initial year of assessment, approximately January 1, 2018. It will continue indefinitely and will be modified as needed. Ongoing monitoring will include the following activities:

- Acknowledgement of Understanding
  - Each year during the person-centered planning process, the participant and provider(s) responsible for implementing the service plan will be asked to acknowledge their understanding of HCBS requirements. This will be monitored by QA staff using existing QA case file audit processes when applicable.

- Compliance Surveys and Quality Reviews
  - The L&C staff members will be oriented annually to the HCBS setting qualities. For those providers who require a certification (Developmental Disabilities Agencies (DDAs) and Residential Habilitation (ResHab) Agencies), L&C surveyors will continue to cite providers using existing processes for violations of requirements that already exist under their rule authority. If L&C observes violations of other HCBS requirements during routine L&C surveys, the violation will be reported to Medicaid or FACS QA staff to be investigated in the same fashion that other complaints are processed.
  - The BLTC and BDDS QA staff will be oriented annually to the HCBS setting qualities. For those providers who receive regular provider quality reviews, QA staff will continue to cite providers using existing processes for violations.
  - The FACS QA staff will be educated annually on the HCBS setting qualities to ensure they can identify and report potential violations of setting requirements that they observe during participant outcome reviews or provider surveys. Educational materials will be developed and made available to support training of new staff.
  - The QA managers from BDDS, FACS, and BLTC will assume responsibility for ongoing monitoring of non-residential setting qualities. They will ensure the following as part of the routine QA activities:
    - Complaints are addressed from participants, guardians or advocates, service coordinators, care managers, informal observations from bureau staff, or L&C staff regarding potential setting requirement violations using the existing complaints and critical incidents protocols.
    - Participant experience measures are reviewed to identify and investigate potential setting requirement violations via the same protocols as for other program requirement violations.

- The QA staff from the alternate bureaus will communicate with each other on assessment and monitoring of HCBS setting qualities to ensure consistency and facilitate data collection.

- Participant Feedback
  - Medicaid will continue to use modified participant experience measures that include questions addressing setting qualities. As part of ongoing monitoring, Medicaid may choose to further modify these measures as needed in order to target any identified statewide compliance concerns. This method will reach 100% of A&D Waiver and State Plan PCS participants and a representative sample of DD program participants each year.
  - Feedback from participants gathered by advocacy groups and university research entities will continue to be used, as it is available. Idaho Medicaid will continue to support these external efforts as much as possible. Any participant feedback collected in this manner will be provided to Medicaid in an electronic format that allows for data compilation and analysis.
  - Expanded HCBS-Specific Participant Survey: Each year Medicaid will identify potential areas of statewide compliance concerns and develop targeted questions to gather direct feedback from participants in those areas. Medicaid will send the Expanded HCBS-Specific Participant Survey to a random sample of participants as part of its monitoring activities for the first three years of implementation and then as needed based on information received through existing QA activities.

Any provider found to be out of compliance with the setting requirements during the initial assessment or the ongoing monitoring phase will go through an established provider remediation process. This process is to be defined as part of the detailed remediation plan which will be developed in 2016. If a rule violation is identified, action will depend on the severity. Action could range from technical assistance, a corrective action plan, or termination of a provider agreement. If it is determined that a setting does not meet HCBS requirements, participants receiving services in those settings will be notified and afforded the opportunity to make an informed choice of an alternative HCBS-compliant setting. The state will ensure that critical services and supports are in place in advance of and during the transition.

2b. Plan for Completing the Assessment of All Settings for Institutional Characteristics

Idaho has completed its assessment of all settings against the first two characteristics of an institution. There are no settings where an HCBS participant lives or receives services that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment. Further, there are no settings on the grounds of or immediately adjacent to a public institution. Idaho will assess all settings against the third characteristic of an institution as part of its larger assessment effort in 2017. At this point in time Idaho does not intend to request the heightened scrutiny process for any HCBS setting.

2c. Tasks and Timeline for Assessment of Residential and Non-Residential Settings

Gap Analysis Work						
Action Item	**Description**	**Proposed Start Date**	**Proposed End Date**	**Sources/Deliverables**	**Key Stakeholders**	**Status**
Residential setting gap analysis	Conduct review of existing policies, rule, service definitions, licensing requirements, provider agreements, provider qualifications, quality assurance processes, training requirements, waiver and state plan language, operational process and supporting documents for support of setting requirements and identification of gaps.	June 2014	October 2014	• Setting analysis	• Department staff	Complete
Informational WebEx meetings	WebEx 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	• Audio and PowerPoint of WebEx meetings posted on webpage	• Providers • Participants • Advocates	Complete
Transition Plan (v1) drafted and posted for comment	Draft a Transition Plan based on the residential setting gap analysis and feedback received through the WebEx series. Post plan on Idaho's HCBS webpage. Collect comments and summarize for incorporation in the Transition Plan.	August 2014	November 2014 (Posted from 10-1-14 through 11-2-14)	• Transition Plan (V1) • Public notices	• Department staff • Participants • Providers • Advocates	Complete
Incorporate feedback into Transition Plan	Document stakeholder comments on Transition Plan. Modify Transition Plan as needed. Include summary of comments.	November 2014	December 2014	• Log of all comments • Analysis of comments	• Department staff	Complete
Non-Residential setting gap analysis	Conduct review of existing policies, rule, service definitions, licensing requirements, provider agreements, provider qualifications, quality assurance processes, training requirements, waiver and state plan language, operational process and supporting documents for support of setting requirements and identification of gaps.	November 2014	December 2014	• Setting analysis	• Department staff	Complete
Informational WebEx meetings	WebEx to provide information to participants, advocates and providers to focus on non-residential setting requirements, review initial gap analysis, solicit feedback/input, and provide contact information for submitting additional comments or questions.	January 2015	January 2015	• Audio and PowerPoint of WebEx meetings posted on webpage	• Providers • Participants • Advocates	Complete

Operational Readiness						
Action Item	**Description**	**Proposed Start Date**	**Proposed End Date**	**Sources/Deliverables**	**Key Stakeholders**	**Status**
Options analysis on assessment and monitoring strategy for residential settings	Assessment of current quality assurance data collected and processes used. Recommendations on how HCBS residential settings are to be assessed to ensure they meet the residential setting requirements and how ongoing monitoring should proceed. Administration set a strategy for assessment and ongoing monitoring.	October 2014	January 2015	• Assessment and monitoring plan for residential service settings	• Participants • Providers • Department staff • Advocates	Complete
Incorporate new information into Transition Plan	Add in assessment and monitoring plan for residential settings.	December 2014	January 2015	• Draft Transition Plan	• Department staff	Complete
Options analysis on assessment and monitoring strategy for the HCBS non-residential settings	Assessment of current quality assurance data collected and processes used. Recommendations on how HCBS non-residential service settings are to be assessed to ensure they meet the setting requirements and how ongoing monitoring should proceed. Administration to set a strategy for assessment and ongoing monitoring.	March 2015	May 2015	• Assessment and monitoring plan for non-residential service settings	• Providers • Department staff	Complete
State HCBS specific rule promulgation	Idaho process for promulgating State HCBS specific rules followed, to include three public comment opportunities.	June 2015	March 2016	• HCBS Rules in IDAPA	• All stakeholders	Started
Transition Plan updated with the approved assessment and monitoring plan for non-residential service settings	Insert the approved assessment and monitoring plan for non-residential service settings into the Transition Plan (v3)	August 2015	August 2015	• Transition Plan (v3)	• Department staff	Complete
Hire an HCBS Coordinator to lead assessment activities	The HCBS Program Coordinator will be responsible to oversee all setting compliance and remediation activities.	August 2015	August 2015	• N/A	• Department staff	Complete
Solicit public comment on the approved strategy for assessing and monitoring settings.	Publish (v3) of the Transition Plan for public comment. Summarize input and add to the plan, submit to CMS and then post on the HCBS webpage.	September 2015	October 2015	• Update to the Transition Plan • Public comments and responses	• Providers • Participants • Advocates • Department staff	In process
Plan for ongoing participant input gathered by an external entity	Collaborate with the Idaho Council on Developmental Disabilities and other entities that work with the HCBS population to develop a consistent and on-going process for gathering input on compliance from users of the services.	September 2015	Ongoing	• To be determined	• Participants • Advocates • Medicaid	In process
Business processes for assessment activities	Define the completion, reporting and tracking processes for all aspects of the assessment.	September 2015	December 2015	• Flow diagrams • Job Aides • Operational Plan	• Department staff	In process
Risk stratification tool/process	Develop a risk stratification tool/process for use determining which providers should receive an HCBS	January 2016	March 2016	• Risk stratification tool/process	• Department staff	Not started

	specific on-site visit.					
HCBS-specific on-site assessment tool for DHW staff utilization	Complete development of an HCBS specific on-site assessment tool for DHW staff utilization.	February 2016	May 2016	• On-site HCBS Assessment Tool	• Department staff	Not started
Provider meetings	Targeted meetings with stakeholders to explore new requirements for non-residential service settings and to develop standards for congregate settings.	February 2015	April 2015	• Standards for non-residential congregate settings	• Providers • Participants • Advocates • Department staff	Complete
Clarifying information for "… to the same degree of access as individuals not receiving Medicaid HCBS".	Develop some additional information to clarify the meaning of "to the same degree of access as individuals not receiving Medicaid HCBS".	April 2015	May 2015	• Written information, form yet to be determined.	• Providers • Participants • Advocates • Department staff	Complete
Public hearing and public comment opportunity	Public hearing as part of the rule promulgation process for IDAPA changes to support HCBS requirements.	October 2015	October 2015	• Meeting comments and responses	• All stakeholders	Not started
Training Plan	A Training Plan will be developed to identify additional training needs for staff, providers and participants. The plan will define the tasks required and the timeline for completing them.	August 2015	October 2015	• Training Plan	• Department staff • Providers • Participants	In process
WebEx on HCBS implementation status	WebEx for all stakeholders on HCBS implementation status with a focus on rules.	April 2016	April 2016	• WebEx document	• All stakeholders	Not started
Provider training on the Toolkit	Toolkit training, how to use it, what the content is, etc.	June 2016	June 2016	• WebEx and ELECTRA on line training tool	• Providers	Not started
Provider training - Completing the Provider Self-Assessment and how to write a transition plan	Provider training on how to complete the Provider Self-Assessment and how to write a transition plan, and how and why these tools will be used.	July 2016	July 2016	• WebEx with audio and Lectora on line training tool	• Providers	Not started
Plan developers training	Training for those persons responsible to work with participants to develop the person centered service plan. To include use of the 'Acknowledgement of Understanding' document for providers and the 'These are Your Rights' document for participants during the plan development meeting.	September 2016	September 2016	• Training materials	• Plan developers	Not started
Staff training – the Assessment Process	Staff training on what the full assessment process looks like, how to complete the HCBS specific on site assessment, as well as tracking and reporting protocols.	October 2016	November 2016	• WebEx and Lectora on line training tool	• Department staff	Not started
Participant training – What are Your Rights?	Participant training – what are your rights, via WebEx and/or an on-line training.	January 2017	January 2017	• WebEx • What are Your Rights Document •	• Participants	Not started

One-Time Assessment Activities						
Action Item	**Description**	**Proposed Start Date**	**Proposed End Date**	**Sources/Deliverables**	**Key Stakeholders**	**Status**
Participant feedback and information sharing	Idaho DD Council and University of Idaho conducting face to face interviews with 240 participants to determine their understanding of the new regulations and to provide information. A follow up will be conducted using the same format in 2019.	September 2015	December 2016	• Training materials • Survey of questions • Summary of feedback received	• Participants • Department staff • Advocates	In process
Acknowledgement of Understanding	The Acknowledgement of Understanding language will be reviewed with providers and participants during all person centered planning meetings.	Beginning July 2016	Ongoing	NA	• Participants • Plan Developers Providers	Not started
These are Your Rights document	The These are Your Rights document reviewed with participants during the plan development meeting every time the plan is developed or updated.	Beginning July 2016	Ongoing	NA	• Participants • Plan Developers • Providers	Not started
Provider Self-Assessment	Providers will be expected to complete a questionnaire that assesses their compliance with the setting requirements. If not all requirements are being met they will be asked to provide a plan on transitioning to full compliance.	July 2016	August 2016	Completed and signed Provider Self-Assessment from all providers, plus transition plans	Providers	
Additional participant feedback: a. HCBS Specific Participant Survey from Medicaid b. Participant experience measures data gathered and analyzed	Analysis of information received from all three sources of participant feedback.	Beginning January 2017	Ongoing	• N/A	• Department staff	Not started
Assessment of compliance (1 year)	Complete the one-time approved assessment plan for all settings.	January 2017	December 2017	• Quality assurance processes and documentation	• Providers • Department staff	Not started
Site Visit Assessments	Site visits will be conducted specifically to assess HCBS compliance, corrective action plans will be issued as appropriate.	January 2017	December 2017	• Completed Site Assessment documents	• Providers • Department staff • Participants	Not started
Validation and compliance determination	The HCBS Coordinator will combine information from all assessment activities to assess compliance and remediate if full compliance is not met, activities include: • HCBS specific on-site assessments • Provider Self-Assessment • Participant feedback from Participant Survey, feedback gather by advocates, and participant experience measures • Acknowledgement of Understanding documents • Compliance surveys and reviews to be conducted	January 2017	February 2018	• Compliance determination	• All stakeholders	Not started

	by quality assurance staff • Corrective Action Plans and complaints received related to HCBS setting requirements					
Results published in an updated Transition Plan	Once the assessment is completed the results will added to the Transition Plan which will then be published for comment.	April 2018	May 2018	• Updated Transition Plan	• All stakeholders	Not started

2d. Tasks and Timeline for Assessment of Settings Presumed to be Institutional

Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Assessment of residential settings against the first two qualities of an institution	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	• Survey document with site results	• Providers • Department staff • Participants	Complete
Informational WebEx meeting	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	• Audio and PowerPoint of WebEx meetings posted on webpage	• Providers • Participants • Advocates	Complete
Phone conferences with RALF providers to discuss analysis and share clarifying information from CMS on what constitutes a public institution.	No RALFs were found to be on the grounds of, or immediately adjacent to, a nursing home or hospital. Once clarification on the definition of a public institution was received, it was clear Idaho does not have any RALFS on the grounds of, or immediately adjacent to, a public institution.	August 2014	September 2014	• Summary of comments	• Providers • Department staff	Complete
Determine best practices for integration for settings <u>with five or more beds</u> (State has since decided not to use standards)	Work with RALF providers, Medicaid nurse reviewers, L&C staff, advocates, and Medicaid policy staff to develop best practices (for integration to ensure settings do not have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.	August 2014	December 2014	• Standards for Integration for Settings with Five or More Beds	• Providers • Department staff • Advocates	Complete

Determine best practices for integration for settings with four or fewer beds (State has since decided not to use standards)	Work with CFH providers, L&C staff and Medicaid policy staff to develop best practices for integration to ensure settings do not have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.	December 2014	January 2015	• Standards for Integration for Settings with four or Fewer Beds	• Providers • Department staff • Advocates	Complete
Assessment of non-residential settings against the first two qualities of an institution	Work with quality assurance staff to assess if there are any non-residential service settings 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.	March 2015	May 2015	• Verification document from quality assurance staff	• Providers • Department staff • Participants	Complete
Solicitation of stakeholder feedback on the outcome of the assessment of residential and non-residential settings against the first two CMS qualities of an institution.	The result of the state's assessment will be added to the Transition Plan and the plan will be reposted for comment. Comments will be summarized and added to the Transition Plan and the Transition Plan will then be reposted on the HCBS webpage.	September 2015	October 2015	• Update in Transition Plan (v3)	• Providers • Participants • Advocates • Department staff	In process
Assessment of all settings against the third characteristic of an institution to ensure settings integrate and do not isolate	Include the work to assess settings for integration vs. isolation into the overall assessment and monitoring plan.	January 2017	December 2017	• Assessment and monitoring plan for integration	• Department staff	Not started
Transition Plan updated	Insert results of settings presumed to institutional into the final version of the Transition Plan, publish for public comment.	January 2018	April 2018	• Updated Transition Plan	• Department staff	Not started

The chart on the following page illustrates the major steps and timeline for moving to full compliance.

Major Steps for Coming into Compliance with HCBS Rules

HCBS Compliance Activity	2016				2017				2018				2019	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Rule Change	Completed													
Provider Compliance Period			6 Months											
Assessment of Compliance Period					1 Year (Corrective Action Plans Developed as Needed)									
Provider Remediation Period					Providers implement corrective action plan (time allowed varies/provider type)									
Provider Sanctions or Disenrollment							Providers sanctioned or disenrolled							
Relocation of Residents as Needed							Assist participants via PCP to identify compliant settings and choices, transition as desired							
Compliance Period					Full Compliance Established									

2e. Plan for Provider Remediation

The state is currently hiring an HCBS Coordinator to oversee all remediation activities. Idaho will also establish an Assessment and Monitoring Oversight Committee to support provider remediation activities. Idaho intends to complete a detailed remediation plan by March 2016. Idaho will publish the final remediation plan for public comment prior to the initiation of the assessment in 2017. However, below is a description of what the state currently plans to do in order to track and report on progress towards full compliance.

Any provider, residential or non-residential, found to be out of compliance with the setting requirements during the initial assessment or the ongoing monitoring phase will go through an established provider remediation process. This process is to be defined as part of the detailed remediation plan which will be developed in 2016. If a rule violation is identified, action will depend on the severity. Action could range from technical assistance, a corrective action plan, suspending payment of claims, or termination of a provider agreement.

The state is currently developing an HCBS-specific process with guidelines for enforcement of HCBS compliance. IDAPA 16.03.09 205.03 regulates agreements with providers and will be followed. The state anticipates establishing a tiered remediation process to allow providers ample opportunity for compliance and to allow the state time to support participants who choose to consider alternative, compliant providers.

The HCBS Program Coordinator will be responsible for overseeing setting compliance and remediation activities. To do that, the coordinator will combine information from all assessment and monitoring activities which include:

- Results of HCBS-specific on-site assessments
- Provider self-assessment and transition plans
- Participant feedback received via the Participant Survey and feedback gathered by advocates
- Acknowledgement of Understanding documents to be signed by providers and participants
- Compliance surveys and reviews to be conducted by quality assurance staffs
- Corrective Action Plans
- Complaints received related to HCBS setting requirements

Section 2g includes a table with the known milestones and timelines for activities to specifically address remediation.

2f. Plan for Participant Transitions

Idaho Medicaid has a high-level plan on how the state will assist participants with the transition to compliant settings. The state will develop a more detailed relocation plan by March 2016. That plan will describe how the state will deliver adequate advance notice, which entities will be involved, how

beneficiaries will be given information and supports to make an informed decision, and how it will ensure that critical services are in place in advance of the transition. Idaho will publish the final Relocation Plan along with the provider Remediation Plan for public comment prior to the initiation of the assessment in 2017.

All providers will have been assessed for compliance on the HCBS rules by the end of December 2017. Non-compliant providers will be given the opportunity to remediate any HCBS concerns. If a provider fails to remediate or does not cooperate with the HCBS transition, provider sanction and disenrollment activities will occur. Any provider who is unable or unwilling to comply with the new rules cannot be reimbursed by Medicaid to provide care and assistance to HCBS participants. If it is determined a setting does not meet HCBS setting requirements, participants will be notified in writing along with their person-centered planning teams. They will be advised that they have a minimum of six months to find alternative care or housing if desired. An updated person-centered plan will reflect whatever the participant chooses to do. They will be given information about the support available to assist them with this transition as well as alternative HCBS compliant settings. All choices will be documented in the participant's file.

2g. Tasks and Timeline for Remediation and Participant Transitions

Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Stakeholder communications	Ongoing WebEx and face–to-face meetings with stakeholders to provide updates, solicit input, and ensure understanding of the requirements, any revisions to IDAPA, etc.	January 2015	March 2019	• PowerPoints • WebEx meetings	• Participants • Providers • Advocates	In process
Idaho Administrative Code (will allow enforcement)	Revise IDAPA to reflect final regulations on HCBS setting requirements.	March 2015	July 2016	• Public notices • Negotiated rulemaking • Draft rules • Analysis of public comments • Final rules	• Providers • Participants • Advocates • Idaho Legislature	In process
Manual and form revisions and development	Revise manuals, Department of Health and Welfare approved forms, and/or provider agreements to incorporate new regulatory requirements for HCBS setting qualities and regulatory requirements for settings presumed to be institutional.	January 2016	July 2016	• Provider manuals • Provider agreement • Universal Assessment Instrument (UAI) • Individual Service Plan (ISP) • Operation manuals	• Department staff • Participants • Providers	Not started
Finalize a detailed Remediation Plan	Determine details of all planned steps for remediation to ensure the state is able to enforce provider compliance and track progress toward full compliance.	January 2016	March 2016	• IDAPA • Remediation Plan • Business process details, diagrams, and descriptions	• Department staff • Providers	Not started
Detailed Remediation Plan and Relocation Plan incorporated into the Provider Toolkit	Include all details concerning remediation in the provider toolkit.	April 2016	May 2016	• Providers • Department staff	• Toolkit	Not started
Finalize details of the Relocation Plan	Determine details of all planned steps for relocation of impacted participants to compliant settings to ensure the state is able to provide participants with adequate support and time for the changes.	June 2016	July 2016	• Relocation Plan	• Department staff • Participants	Not started
Publish the Remediation Plan and Relocation Plan details for public comment	Utilizing the CMS public noticing requirements, publish the Remediation Plan for comment for 30 days and track and respond to all comments as required.	June 2016	July 2016	• Proof of public noticing • Summary of	• All stakeholders	Not started

				comments and changes made as a result • Reasons the state disagreed with a comment if applicable		
Assessment and Monitoring Oversight Committee	Establish membership, write charter, and initiate monthly meetings.	July 2016	Ongoing	• Charter • Meeting documentation	• Department staff • Participants • Advocates	Not started
Time for providers to come into compliance (6 months)	Allow providers six months to move to full compliance.	July 2016	December 2016	NA	• Providers	Not started
Provider remediation	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	• Provider letters	• Providers • Department staff	Not started
Provider sanctions and disenrollment	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	• Provider letters	• Providers • Department staff	Not started
Update the State Transition Plan	Add the results of the assessment activities into the STP and publish it for 30 days for public comment.	April 2018	May 2018	• State Transition Plan	• All stakeholders	Not started
Participant transitions to HCBS compliant settings	Where applicable, contact participants and work with case managers and person-centered planning teams to ensure that participants who want to transition to settings that meet the HCBS setting requirements are supported. Participants will be given timely notice and will be provided with a choice of alternative settings through a person-centered planning process.	May 2017	March 2019	• Provider letter • Participant letter • Updated person centered plan	• Participants • Providers • Department staff	Not started
Full compliance	ALL settings will be fully compliant.	March 2019	March 2019			
Ongoing monitoring	Implement approved monitoring plan activities.	January 2018	Ongoing	• Quality assurance processes and documentation	• All stakeholders	Not started

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 and will remain active through full compliance with the HCBS regulations.

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 MedicAide 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 would be available for public comment prior to each publication.

5. Stakeholder meetings have been ongoing. To launch this effort a series of six WebEx meeting were held during the months of July and August, 2014 and January 2015. 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 all WebEx presentations given by the state 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 2014 to collaborate and gather additional information related to settings presumed to be institutional.

8. The state has given presentations on the HCBS regulations and Idaho's work to come into compliance to numerous stakeholder groups beginning in September of 2014. These presentations will be ongoing through full compliance in Idaho.

9. The state held meetings 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.

10. The work with provider groups and the stakeholder WebEx meetings are expected to continue through full compliance in March 2019. Trainings are scheduled to begin in spring 2016 and continue as needed through full compliance in March 2019. They will include in person meetings, conference calls and possibly WebEx meetings

11. The regulation requires that states provide a minimum of 30-day public notice period for the state's Transition Plan and two or more 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, again on January 23, 2015, through February 22, 2015, and finally on September 9, 2015, through October 12, 2015. Comment options include(d) a link to email the program directly with comments.

    - Copies of the draft Transition Plan were placed in all regional Medicaid offices statewide as well as in the Medicaid State Central office during each comment period 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 prior to each comment period. 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 made via emails to providers, associations, consumer advocacy organizations, participants, and other potentially interested stakeholders for each publication. The email contained an electronic copy of the Transition Plan and information about how to comment.

    - An electronic copy of each version of the Transition Plan was emailed to four advocacy groups in Idaho at the beginning of each comment period. 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.

    - Notices announcing the comment periods were also published in four Idaho newspapers prior to each comment period:

        i. The Post Register
        ii. The Idaho Statesman
        iii. The Idaho State Journal
        iv. The Idaho Press-Tribune

The following is a copy of the first newspaper notice announcing the comment period:

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

12. The Transition Plan (v2) was submitted to CMS on March 13, 2015. The state has archived all versions of the Transition Plan and will ensure that the archived versions along with the most current version of the Transition Plan remain posted on the state's HCBS webpage and available for review for the duration of the state's transition to full compliance. Idaho Medicaid's Central Office will retain all documentation of the state's draft Transition Plan, public comments, and final Transition Plan.

To see proof of public noticing, please refer to *Attachment 1, Proof of Public Noticing.* Details for the third comment period noticing process will be added after comments are received.

3b. Summary of Public Comments

Comments were received from eleven different individuals or entities during the first comment period. The Idaho Council on Developmental Disabilities as well as DisAbility Rights Idaho, family members of service participants, and providers were represented in those comments. Comments covered the following topics:

- Compliance challenges for providers in provider owned or controlled settings such as allowing residents the freedom to pick their roommate and allowing residents access to food at any time.
- Setting assessment questions and comments concerning how Idaho plans to assess compliance with the new HCBS requirements.

- Provider reimbursement and the need to increase provider reimbursement if providers are to meet these new requirements.
- Comments on the use of blended rates and the unintended consequences or encouraging congregate care.
- Comments on too much or too little access to the community, how transportation impacts integration, how the Department will determine isolation versus integration and what level of integration is best for each individual.
- The need to better engage persons with disabilities in the process of developing and implementing the Transition Plan and most importantly, in assessing settings for compliance.
- Comments on the person centered planning process currently in place in Idaho Medicaid.
- Current practices by some Medicaid providers to restrict individual choice and freedom were identified as problematic.
- Perceived barriers to access to HCBS residential services.
- Perceived quality issues with HCBS residential services.
- Request to add new services not currently offered in Idaho.
- Comment on the difficulty for readers to understand/validate the gap analysis results when the rule language used in that analysis is not included.

To see all comments from the first comment period please refer to *Attachment 2, Public Comments to Idaho HCBS Settings Transition Plan Posted in October 2014.*

Comments were received from nine individuals or entities during the second comment period. Comments covered the following topics:

- Challenges with compliance for providers.
- Requests for the addition of expanded or new services.
- Requests for clarification on what it means when the rule states" "…to the same degree as…"
- Areas where commenters disagree with the state's determination that there is a gap between the new requirements and Idaho's current level of compliance.
- Other: there were comments on a variety of topics.

To see all comments from the second comment period please refer to *Attachment 3, Public Comments to Idaho HCBS Settings Transition Plan Posted in January 2015.* Details for the third comment period will be added after all comments are received.

3c. Summary of Modifications Made Based on Public Comments

First Comment Period

- Added links to the IDAPA and to all waivers which were used in the initial gap analysis. Those links are found on the first and second page of this document. See the *Introduction*.
- Added clarifying language in *Section Two* about how Idaho plans to complete the assessment of HCBS settings to reassure readers that the state will not rely solely on provider self-assessment or the initial gap analysis to determine compliance. The assessment and monitoring process will include feedback directly from individuals who access these settings and compliance will be validated via on-site visits as described in *Section Two* of this document.
- Added information describing the plans the Idaho Council on Developmental Disabilities has to host a series of public forums statewide. The goal is to educate and to solicit input from participants utilizing HCBS services. Medicaid will work collaboratively with them on this effort and to develop a plan for a consistent and on-going process for gathering input on compliance from those participants who utilize the services. See tasks on pages 33 and 36.
- Added the standards the Department will use to determine if residential settings with five or more beds are integrated into the community and do not isolate. See *Attachment1: Integration Standards for Provider Owned or Controlled Residential Settings with Five or More Beds.*
- Added the standards the Department will use to determine if residential settings with four or fewer beds are integrated into the community and do not isolate. See *Attachment2: Integration Standards for Provider Owned or Controlled Residential Settings with Four or Fewer Beds.*

Second Comment Period

- The state has agreed to provide further clarification on how to define "….to the same degree of access as individuals not receiving Medicaid HCBS." Tasks were added to the task plan as reflected on page 36. The state expects to complete this work by May of 2015 and will include it in the next publication of the transition plan.
- In relation to Developmental Therapy, the state agrees that IDAPA 16.03.21.905.01.g supports the participant's right to retain and control their personal possessions. The transition plan was updated to reflect this rule support. Please see page 23.

Third Comment Period

Details for the third comment period modifications will be added after all comments are received.

3d. Summary of Areas where the State's Determination Differs from Public Comment

First Comment Period

- **Comments related to problems complying with new regulations:**
  There were comments from providers who identified potential problems they expect to encounter if they comply with the new regulations.
  Response: A modification to the Transition Plan was not made based on these comments. Instead, Medicaid has developed a series of FAQs as a result of those questions to assist providers and others in understanding what the rules are, why they are important, and how the state plans to assist providers in coming into compliance. Those FAQs will be posted to the HCBS webpage by the end of February, 2015.

- **Comment requesting more funding for additional services/use of technology:**
  Response: It is not likely that at this time services will be expanded to cover payment of assistive technology which is not currently covered. Adding new services is outside the scope of this work and the Department is not able to consider this request at this time.

- **Transportation restrictions: Comment –** "Medicaid Transportation can have a huge effect on a person's ability to make personal choices about the services they receive. The current contract with American Medical Response and its implementation restrict a participant's choice of provider and the place where the service is received by limiting transportation to the closest Medicaid provider site to offer the service. This may pose another hidden barrier to participant choice and community integration, in violation of the CMS regulations. The issue is not addressed in the plan."
  Response: Non-emergency medical transportation is a service that Idaho provides through a brokerage program in accordance with 1902(a)(70) of the Social Security Act and 42 CFR 440.170(a)(4). If needed, non-emergency medical transportation can be approved to transport participants to the following HCBS services: developmental therapy, community crisis, day rehabilitation, habilitative intervention and habilitative supports. In order to ensure non-emergency medical transportation is delivered in the most cost effective manner, IDAPA requires that the transportation be approved to the closest provider available of the same type and specialty. If a participant is denied non-emergency medical transportation to a provider of their choice, the participant is able to submit supporting documentation explaining the reason/need for them to be transported to a provider located farther away. This documentation will be reviewed and necessity will be determined on a case-by-case basis through the appeal process.

  Additionally, adult participants on the DD and A&D waivers have access to non-medical transportation which enables a waiver participant to gain access to waiver and other community services and resources. Non-medical transportation funds can be used to receive transportation services from an agency or for an individual or to purchase a bus pass. The non-medical transportation service does not have the same provider distance requirements.

At this time, Idaho Medicaid does not anticipate it will be necessary to modify the current transportation services as a result of the new HCBS regulations.

- **Rate Structure**: There were six comments related to the provider reimbursement rate structure.
  Response: The Department of Health and Welfare evaluates provider reimbursement rates and conducts cost surveys when an access or quality indicator reflects a potential issue. The Department reviews annual and statewide access and quality reports. In doing so, the Department has not encountered any access or quality issues that would prompt a reimbursement change for any of the HCBS services. Because we are committed to ensuring that our participants have access to quality HCBS services, we have published administrative rules in IDAPA 16.03.10.037 that details our procedure on how we evaluate provider reimbursement rates to comply with 42 U.S.C. 1396a(a)(30)(A) to ensure payments are consistent with efficiency, economy, and quality of care. Should criteria in rule be met, the state will evaluate provider reimbursement rates.

- **Blended Rates:** There was one comment related to use of blended rates.
  Comment: Reimbursement rates for services can create unintended barriers to community integration. "Blended rates" for Section 1915(i) services which pay the same rate for individual and group services creates a strong incentive to provide services in groups or in segregated centers. Center based and group services can have the effect of limiting individual choices and preventing participation in community settings.
  Response: The type, amount, frequency and duration of developmental therapy is determined through the person centered planning process. The person centered planning process requires that the plan reflect the individual's preferences and is based on the participant's assessed need. Providers of individual and group developmental therapy must deliver services according to the person centered plan to ensure that individual choice is not limited.

- **Access and Quality of Care Barriers:** Two commenters discussed perceived barriers to quality of care offered in and access to CFHs in Idaho.
  Response: Pre-approval is a check to ensure:
  - the provider has the necessary qualifications to meet the resident's needs
  - the correct number of providers in the home to provide the 24/7 care, also to ensure substitute caregiver qualifications are met if the provider is out of the home, assistance in evacuating residents in case of fire, etc.
  - the resident would fit in with the other residents in the home and are in agreement with the additional placement if that is the case
  - the CFH staff check to see if the CFH is compliant with the American Disabilities Act , if that is the need
  - no medications will be administered; i.e., injections, sublingual, etc. – just assisting the resident with their medications

The Department approval process ensures that participants and their representatives or guardians are able to choose from among service providers that meet Department standards for health and safety.

There is no known access problem for CFHs in Idaho. As of December 8, 2014, there were 354 vacancies in CFHs. All seven regions of the state had multiple vacancies at that time. The Department will continue to monitor access and should it become a problem, action will be taken at that time. The Department has a robust monitoring system for CFHs which includes an on-site visit once a year. Any areas of concern are addressed through the Department's corrective action and sanctioning processes pursuant to IDAPA 16.03.19.910 – 16.03.19.913.

A complete summary of where the state's determination differs from public comment can be found in *Attachment 2: Public Comments to the Idaho HCBS Settings Transition Plan Posted in October 2014.*

Second Comment Period

A complete summary of where the state's determination differs from public comment can be found in *Attachment 3: Public Comments to the Idaho HCBS Settings Transition Plan Posted in January 2015.*

Third Comment Period

Details for the third comment period will be added after all comments are received.

Attachments

Attachment 1: Proof of Public Noticing

Attachment 2: Public Comments to the Idaho HCBS Settings Transition Plan Posted in October 2014

Attachment 3: Public Comments to the Idaho HCBS Settings Transition Plan Posted in January 2015

Attachment 4: Public Comments to the Idaho HCBS Settings Transition Plan Posted in September 2015

Attachment 5: Index of Changes

Proof of Public Noticing

Idaho's HCBS Statewide Transition Plan

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#1 – WEBPAGE

The Transition Plan and comment process were posted at **www.HCBS.dhw.idaho.gov**

Medicaid
Premium Assistance
Idaho Health Home
Healthy Connections
Home Care
Idaho Health Plan for Children
Medicaid for Workers with Disabilities
Medicaid Participants
Medical Care
Preventive Health Assistance
Medical Care Advisory Committee
School-Based Services
Idaho Home Choice
Children's Healthcare Improvement Collaboration
Medicaid Behavioral Health Managed Care
Long Term Care Managed Care
Managed Care for Idaho Medicaid
Home and Community Based Settings: Final Rule

Idaho State Transition Plan, Coming Into Compliance with HCBS Setting Requirements
Public Notice and Request for Comment

Post Date: January 23, 2015
Posted for Public Comment until February 22, 2015
Contact: Michele Turbert, Project Manager, Medicaid 208-364-1946

Link to: *Idaho State Transition Plan*

Purpose

The purpose of this posting is to provide public notice and receive public comments for consideration regarding version two of Idaho Medicaid's Draft Home and Community Based Services Settings Transition Plan. The full Transition Plan can be found by selecting the link in the right hand column titled: Idaho State 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 in March, 2015. 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 this webpage or 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.

Comments should be submitted by February 22, 2015. Comments and input regarding the draft transition plan may be submitted in the following ways:

- On this webpage 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.
- By e-mail: HCBSSettings@dhw.idaho.gov
- By written comments sent to:

  HCBS
  Division of Medicaid, Attn. Transition Plan
  PO Box 83720
  Boise, ID 83720-0009

- By FAX: (208) 332-7286 (please include: Attention HCBS)
- 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

February 13, 2015 Provider Meeting

DDA providers and adult day health providers are invited to attend a meeting Friday, Feb. 13, to discuss congregate settings, or center-based services, and the new federal Home and Community-Based Services (HCBS) regulations. Our overarching goal for this meeting is to begin a dialogue on how we can work collaboratively to develop standards that Idaho Medicaid can use to assess Idaho's congregate settings for the qualities described in the regulations. As a reminder, you are invited to attend this meeting on Friday, February 13, from 1:00 p.m. to 2:00 pm MST in person at 3232 Elder St., Boise, ID 83705 conference rooms D-East and D-West, or via phone conference by dialing (888) 706-6468 using participant code 797069.

HCBS Regulations

Meeting Agenda

Exploratory Questions from CMS

Frequently Asked Questions

FAQs

What's New

Idaho State Transition Plan
WebEx series on Home and Community Based Settings Final Rule

Resources

CMS HCBS Website
HCBS Advocacy
Home and Community Based Setting Qualities

Ask The Program

We are interested in receiving your comments, recommendations, and questions as we work to develop a plan to transition to full compliance with the new HCBS setting requirements. All comments will be reviewed. The state will incorporate appropriate suggestions into the transition plan. A summary of public comments, including comments that agree/disagree with the state's determination about whether types of settings meet the HCBS requirements, will be included in the Final Transition Plan.

Email the program

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 whether settings have the qualities and characteristics of an institutional setting as described by CMS' final HCBS rule. Idaho completed the analysis of all HCBS provider owned or controlled residential settings in fall, 2014. There are no residential settings that are in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. Idaho has not yet completed its assessment of non-residential service settings to ensure they are not in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. Idaho has also not yet completed its assessment of residential or non-residential service settings to ensure they do not have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. The Transition Plan describes Idaho's plans for completing that assessment.

Idaho completed a preliminary analysis of its non-residential HCBS service settings December 2014. This analysis identified areas where the new regulations on non-residential services 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.

Home and Community Based Settings: Final Rule, Community Settings

The Centers for Medicare and Medicaid Services (CMS) issued a final rule for home and community based settings (HCBS) effective March 17, 2014. The purpose of the regulation is to ensure that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community and that the individual's role in service planning is optimized. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive HCBS. Idaho Medicaid is currently completing an analysis of the regulation to determine the impact to participants and providers.

CMS expects all states to develop a HCBS transition plan that provides an assessment of potential gaps in compliance with the new regulation, as well as strategies and timelines for becoming compliant with the rule's requirements. CMS further requires that states seek input from the public in the development of this transition plan. When available, Idaho will post the draft transition plan for comment on this website for 30 days. The plan will also be distributed to provider associations, consumer advocacy organizations, and other potentially interested stakeholders for feedback.

Additionally, stakeholder meetings will be provided via a series of WebEx presentations in the upcoming months. Stakeholders are encouraged to attend and provide comments during this time.

All comments will be reviewed. The state will incorporate appropriate suggestions and summarize the modifications made to the transition plan in response to the public comment. A summary of public comments, including comments that agree and disagree with the state's determination about whether types of settings meet the HCBS requirements, will be included.

Resource on Home and Community Based Advocacy

Please take a moment to access a great resource (**HCBS Advocacy**) for learning more about the HCBS setting regulations and how they

are expected to impact both providers and individuals receiving home and community based services.

Under the *State Resources* tab you will find information on each state's current efforts to comply with the new HCBS setting regulations. Under the *National Resources* tab you will find helpful national-level advocacy resources. They include a variety of tools to assist with advocating for people who may access HCBS. This website contains a host of additional information any stakeholder should be interested in reading.

WebEx Presentations

Collapse All Expand All

- WebEx Series 1
- WebEx Series 2
- WebEx Series 3
- WebEx Series 4
- WebEx Series 5
- WebEx Series 6
- WebEx Series 7

If you would like to be notified when this webpagte is updated, please click on the 'Monitor this Page' button below and sign up for updates.

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#2 - MEDICAID OFFICE POSTINGS

A notice was posted in the Medicaid Central office as well as in all regional Medicaid offices statewide announcing the comment period and how to comment. Printed copies of the Transition Plan were made available at all locations. Photos of those postings are provided below along with a copy of the printed notice.

PUBLIC NOTICE
And Request for Comments
Idaho State Transition Plan:
Coming into Compliance with HCBS Setting Requirements

Post Date: JANUARY 23, 2015
Comments Accepted until: FEBRUARY 22, 2015

Background

The Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) published regulations 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.

Summary of the Plan

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.

The plan further outlines the standards Idaho will use to assess the HCB residential settings to ensure they are integrated in and support full access of individuals to the greater community.

States must also make a determination that settings where HCB services are provided do not have the characteristics of an institutional setting as described by CMS. The Transition Plan describes Idaho's work to date in relationship to this requirement as well as its plans for completing that assessment.

Idaho completed a preliminary analysis of the non-residential settings where HCB services are offered in December, 2014. This analysis identified areas where the new regulations on non-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.

How can I get a copy of the plan?

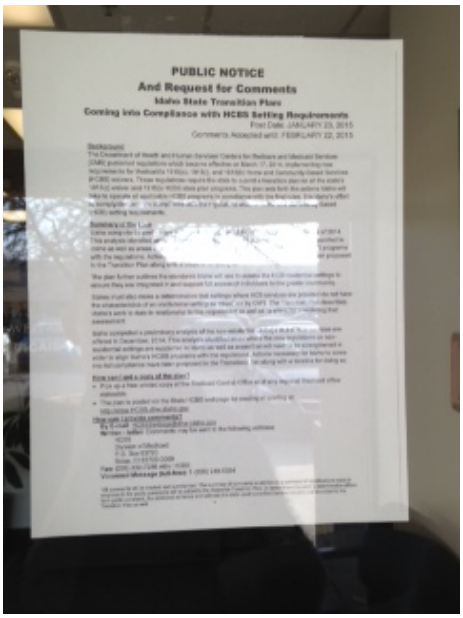
- Pick up a free printed copy at the Medicaid Central Office or at any regional Medicaid office statewide.
- The plan is posted on the State HCBS webpage for reading or printing at http://www.HCBS.dhw.idaho.gov

How can I provide comments?

By E-mail: HCBSSettings@dhw.idaho.gov
Written - letter: Comments may be sent to the following address:
HCBS
Division of Medicaid
P.O. Box 83720
Boise, ID 83720-0009
Fax: (208) 332-7286 Attn: HCBS
Voicemail Message (toll-free): 1-(855) 249-5024

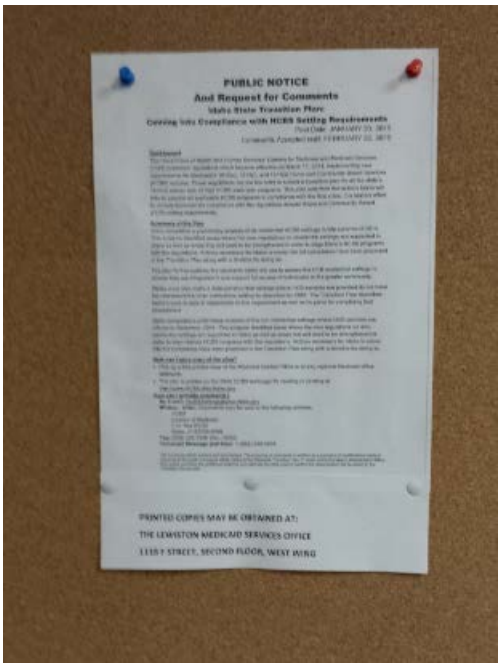
*All comments will be tracked and summarized. The summary of comments in addition to a summary of modifications made in response to the public comments will be added to the Statewide Transition Plan. In cases where the state's determination differs from public comment, the additional evidence and rationale the state used to confirm the determination will be added to the Transition Plan as well.

CENTRAL OFFICE – Boise, Idaho

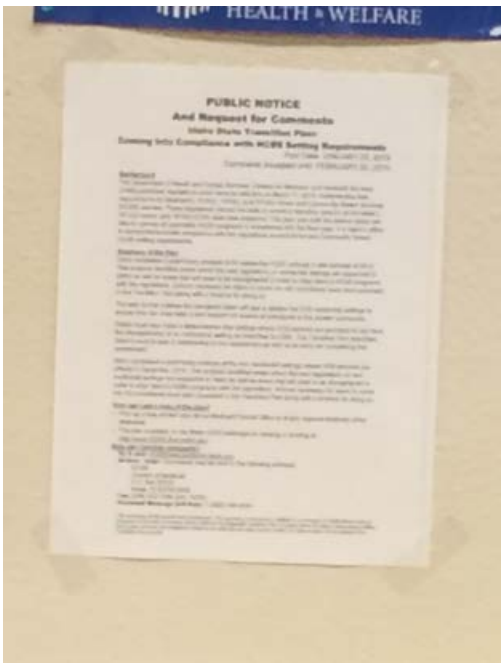


REGION #1 – Coeur d'Alene, Idaho

REGION #2 – Lewiston, Idaho



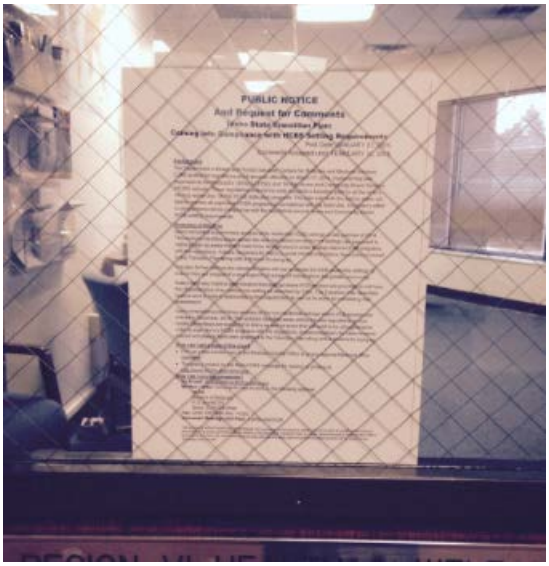
REGION #3 – Caldwell, Idaho



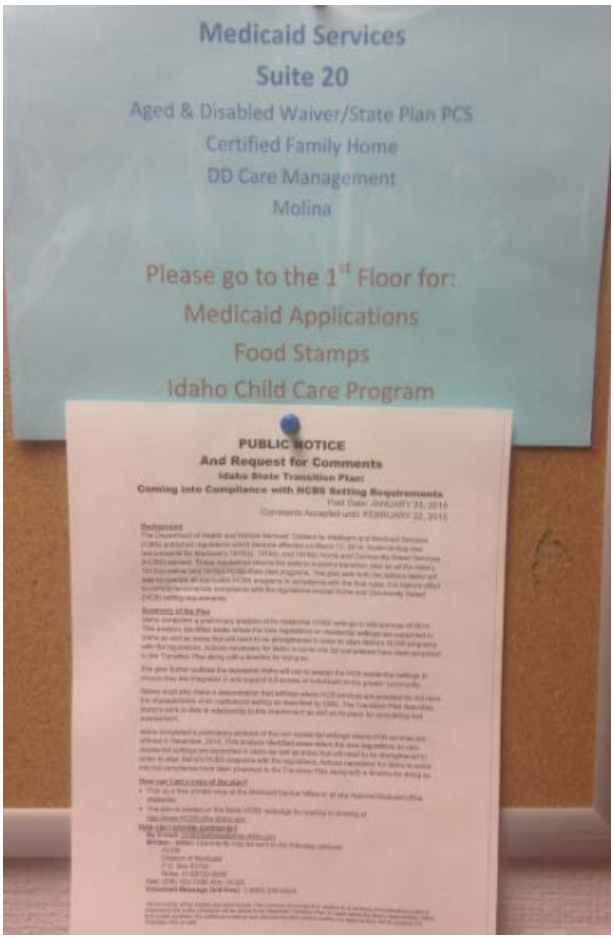
REGION #4 – Boise, Idaho

REGION #5 – Twin Falls, Idaho

REGION #6 – Pocatello, Idaho



REGION #7 – Idaho Falls, Idaho



#3 – EMAIL NOTICES

Email notices were sent to all stakeholder groups announcing the opening of the comment period. The emails also contained an attached copy of the Statewide Transition Plan. In total the email you see below was sent to seven contact groups that included advocates, various organizations across the state that work with the populations served via HCBS, providers and others who had requested over the last several months to be included in our contacts related to this effort.

From: HCBSSettings Sent: Fri 1/23/2015 8:56 AM

To:

Cc:

Bcc:

Subject: HCBS Idaho Statewide Transition Plan available for comment!

Message IdahoTransitionPlan.pdf

Good Morning,

The Idaho State Transition Plan for home and community based services and settings is attached for your review. It has also been posted at to www.HCBS.dhw.idaho.gov. 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.

The Department will accept comments on the plan from January 23, 2015, through February 22, 2015. You may pick up a copy of the plan at any Regional Medicaid office or at the Medicaid Central office at 3232 Elder St., Boise.

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

1. On the webpage listed above in the right hand column you will see an *Ask the Program* section. There you can hit the ***Email the program*** tab and email your comments directly to the program.
2. E-mail: HCBSSettings@dhw.idaho.gov .
3. Written comments may be sent to the following address:
   HCBS
   Division of Medicaid
   P.O. Box 83720
   Boise, ID 83720-0009
4. Fax: (208) 332-7286, please include: Attention HCBS
5. Voicemail Message at this toll free line: 1-(855) 249-5024

Thank you again for your support and involvement in this effort. Your time and efforts are greatly appreciated!

The Medicaid HCBS Project Team

#4 – NEWSPAPER POSTINGS

The comment period was announced in four major newspapers in Idaho. Proof of those newspaper notices follow.

IDAHO PRESS TRIBUNE

65801 1223022

1 DIVISION OF MEDICAID

PO BOX 83720
BOISE ID 83720--009

LEGAL NOTICE

The Idaho Department of Health and Welfare (IDHW) hereby gives notice that it intends to post its public notice regarding the Idaho State Transition Plan for Home and Community Based Services (HCBS) on January 23, 2015. As required by 42 CFR § 441.301(c)(6), IDHW will provide a 30-day public notice and comment period regarding the transition plan prior to submission to CMS. Comments will be accepted through February 22, 2015. IDHW may modify the plan based on comments and will then 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 and 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:
Toll free at (855) 249-5024

January 12, 2015

1223022

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)
)SS.
County of Canyon)

LINDA SPENCER
of Nampa, Canyon County, Idaho, being first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 1 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
01/12/2015

Linda Spencer

STATE OF IDAHO)
County of Canyon)
On this 13th day of January in the year of 2015 before me a Notary Public, personally appeared. LINDA SPENCER, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Suzanne Remick

Notary Public for Idaho
Residing at Canyon County
My Commission expires 07/25/2018

SUZANNE REMICK NOTARY PUBLIC STATE OF IDAHO

IDAHO STATE JOURNAL

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

LN22151

LEGAL NOTICE

The Idaho Department of Health and Welfare (IDHW) hereby gives notice that it intends to post its public notice regarding the Idaho State Transition Plan for Home and Community Based Services (HCBS) on January 23, 2015. As required by 42 CFR § 441.301(c)(6), IDHW will provide a 30-day public notice and comment period regarding the transition plan prior to submission to CMS. Comments will be accepted through February 22, 2015. IDHW may modify the plan based on comments and will then 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 and 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: Toll free at (855) 249-5024

January 11, 2015

LN22151

KAREN MASON

being first duly sworn on oath deposes and says: that SHE was at all times herein mention a citizen of the United States of America more than 21 years of age, and the Principal Clerk of the Idaho State Journal, a daily newspaper, printed and published at Pocatello, Bannock County Idaho and having a general circulation therein.
That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

Jan. 11 2015 _____ 2015
_____ 2015 _____ 2015
_____ 2015 _____ 2015
_____ 2015 _____ 2015

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice of advertisement and is a newspaper within the meaning of the laws of Idaho.

K. Mason

STATE OF IDAHO
COUNTY OF BANNOCK
On this 12th of Jan. in the year of 2015, before me, a Notary Public, personally appeared KAREN MASON Known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn declared that the statements therein are true, and acknowledge to me that he executed the same.

Notary of Public
Lori A. Sekot
Residing at Arimo exp. 3/3/2015

LORI A. SEKOT NOTARY PUBLIC STATE OF IDAHO

IDAHO STATESMAN

Idaho Statesman
The Newspaper of the Treasure Valley
IDAHOSTATESMAN.COM
PO Box 40, Boise, ID 83707-0040

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
262720	0001503342	LEGAL NOTICE The Idaho Department of	01072015	$62.12	2	27

Attention: Teresa Marten

ID DEPT OF H&W / MEDICAID
3232 ELDER ST
BOISE, ID 837054711

LEGAL NOTICE

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Boise, ID 83720-0009
Fax: (208) 332-7286
Voicemail Message: Toll free at (855) 249-5024

Pub. Jan. 12, 2015

0001503342-01

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

1 Insertions

Beginning issue of: 01/12/2015

Ending issue of: 01/12/2015

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)
.SS
COUNTY OF ADA)

On this 12th day of January in the year of 2015 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Heather Harradine
Notary Public FOR Idaho
Residing at: Boise, Idaho

My Commission expires: 2/1/2020

HEATHER HARRADINE NOTARY PUBLIC STATE OF IDAHO

THE POST REGISTER

Proof of Publication
The Post Register

State of Idaho
Bonneville County:

I, ~~Hilary Witt~~ or Staci Dockery, first being duly sworn, depose and say: That I am the ~~Classifieds Manager or~~ Legal Notice Representative of the Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published Tuesday through Sunday at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880, and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November 1931, and each of said newspapers have been published continuously and uniterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidations up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register under this ad number: **698968**, for **1** consecutive (days) weeks, between **01/10/2015** and **01/10/2015**,

and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Staci Dockery

Subscribed and sworn to before me, this 12 day of January 2015

BARBARA E. ROBERTS NOTARY PUBLIC STATE OF IDAHO

Barbara E. Roberts
Notary Public

My Commission expires: 5/9/2019

— - attached jurat — — — — — — — — — — — — — — — — — — —

THE POST REGISTER – Continued

LEGAL NOTICE

The Idaho Department of Health and Welfare (IDHW) hereby gives notice that it intends to post its public notice regarding the Idaho State Transition Plan for Home and Community Based Services (HCBS) on January 23, 2015. As required by 42 CFR § 441.301(c)(6), IDHW will provide a 30-day public notice and comment period regarding the transition plan prior to submission to CMS. Comments will be accepted through February 22, 2015. IDHW may modify the plan based on comments and will then 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 and Medicaid Central Office for pick up.

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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: Toll free at (855) 249-5024

Published: January 10, 2014 (698968)

#5 - THE FOLLOWING ANNOUNCEMENT WAS POSTED FOR PROVIDERS AT WWW.IDMEDICAID.COM AND ON INTERCOMM

Medicaid maintains a portal for providers where a variety of announcements are made on a regular basis. The announcement below was posted there for the entire comment period.

From: Idcommunications <Idcommunications@MolinaHealthCare.Com> Sent: Fri 1/23/2015 3:01 PM
To:
Cc:
Subject: New Announcement Posted for Providers - Public Comments Due by February 22, 2015

The following announcement was posted for providers at www.idmedicaid.com and on InterComm. Please distribute to your teams as appropriate.

Public Comments Due by February 22, 2015
The updated Idaho State Transition Plan for Home and Community Based Service Settings is now posted for public comment at www.HCBS.dhw.idaho.gov. Comments will be taken through February 22, 2015.

ID Communications
Molina Medicaid Solutions
9415 W. Golden Trout Way | Boise, ID 83704

The information contained in this email may be privileged, confidential or otherwise protected from disclosure. All persons are advised that they may face penalties under state and federal law for sharing this information with unauthorized individuals. If you received this email in error, please reply to the sender that you have received this information in error. Also, please delete this email after replying to the sender.

IMPORTANT NOTICE TO RECIPIENT: This email is meant only for the intended recipient of the transmission. In addition, this email may be a communication that is privileged by law. If you received this email in error, any review, use, disclosure, distribution, or copying of this email is strictly prohibited. Please notify us immediately of the error by return email, and please delete this email from your system. Thank you for your cooperation.

HealthPAS

Enable Accessibility

IDAHO DEPARTMENT OF HEALTH & WELFARE

MOLINA Medicaid Solutions

Thu, Feb 12, 2015

Idaho Medicaid Health PAS OnLine > Announcements

Announcements

Actions

1 - 10 View: **Current**

Title	Body
Healthy Connections/Health Home Member Rosters	The February Healthy Connections and Idaho Medicaid Health Home Member Rosters have been posted to your secure Trading Partner Account.
Idaho Health Care Conference - Save the Date	The dates have been announced for the 2015 Idaho Health Care Conference. Look for more details soon on www.idmedicaid.com. • Clarkston – May 5, 2015 • Coeur d'Alene – May 6, 2015 • Idaho Falls – May 12, 2015 • Pocatello – May 13, 2015 • Twin Falls – May 14, 2015 • Boise – May 21, 2015
February MedicAide Newsletter Now Online	The February edition of the MedicAide Newsletter is now available online. Please click here for the latest news and information affecting Idaho Medicaid providers. If you must receive the MedicAide by mail, please dial 1 (866) 686-4272 and select option 3.
Attention PCPs and PHA Weight Management Providers	Preventive Health Assistance (PHA) has been added as section 2.8 of the General Provider and Participant Information handbook. Eligibility and billing information for weight management services has changed.
Child Wellness Exam Policy Clarifications	Child Wellness Exam policy clarifications have been added to the Allopathic and Osteopathic handbook and the General Provider and Participant Information handbook. These changes are to align the handbooks with the rule. Providers should note that **IDAPA 16.03.582 defines the following:** • **Periodic Medical Screens**. Periodic medical screens are to be completed according to the American Academy of Pediatrics periodicity schedule including blood lead tests at age twelve (12) months and twenty-four (24) months. The medical screen must include a blood lead test when the participant is age two (2) through age twenty-one (21) and has not been previously tested. • **Physical exams for any other purpose are not considered medically necessary.** Providers should review changes in both handbooks and note V70.3 is not an allowable diagnosis code when billing wellness exams.
Provider Handbook Updates	Updates have been made to the Provider Handbook. You may find the link on the left navigation panel of this website. Changes are noted at the beginning of each document. The updated documents are: • Allopathic and Osteopathic Physicians • General Billing Instructions

	• General Provider and Participant Information • Hospital
Public Comments Due by February 22, 2015	The updated Idaho State Transition Plan for Home and Community Based Service Settings is now posted for public comment at www.HCBS.dhw.idaho.gov. Comments will be taken through February 22, 2015.
Medicaid ICD-10 Compliant!	We have completed successful validation of ICD-10 updates to our Molina claims processing system (MMIS) for ICD-10 compliance with an effective date of 10/1/2015. **ICD-9 coded claims are required for dates of service through 9/30/2015. Starting 10/1/2015, all claims with a date of service of 10/1/2015 and later are required to be billed with ICD-10 codes.**
A4248 - Chlorhexidine Containing Antiseptic, 1 ml	Effective February 1, 2015, Idaho Medicaid will no longer reimburse separately for Chlorhexidine antiseptic (A4248). Payment for A4248 is bundled into the service provided.
Health Acquired Conditions (HAC)/Present on Admission (POA)	Beginning January 1, 2015 Medicaid will implement an edit in the claims processing system that will look at inpatient claims for Health Acquired Conditions (HAC). The system will use the combination of the Present on Admission (POA) indicator, procedure codes, and diagnosis codes. The POA indicator is required for all claims involving Medicaid inpatient admissions. POA is defined as present at the time the order for inpatient admission occurs — conditions that develop during an outpatient encounter, including emergency department, observation, or outpatient surgery, are considered POA. The POA indicator is assigned to principal and secondary diagnoses. For details and proper billing, refer to the Provider Handbook – Hospital (https://www.idmedicaid.com/Provider%20Guidelines/Hospital.pdf) Section 4.4 – 4.4.2. **Any claim that is not properly billed will be denied.**

1 - 10 ▸

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#6 TRIBAL NOTICE

A notice was sent directly to all the tribal representatives in Idaho announcing the posting of the Transition Plan and soliciting comments.

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

LISA HETTINGER - Administrator
DIVISION OF MEDICAID
Post Office Box 83720
Boise, Idaho 83720-0009
PHONE: (208) 334-5747
FAX: (208) 364-1811

January 15, 2015

Dear Tribal Representative:

The purpose of this letter is to give notice that Idaho must complete a transition plan to comply with the Center for Medicare and Medicaid Services (CMS) final Home and Community Based Services (HCBS) setting regulations.

On January 23, 2015, Idaho will post a draft HCBS transition plan in order to receive stakeholder input. This transition plan will be located at www.HCBS.dhw.idaho.gov and copies will be available at all IDHW regional offices and Medicaid Central Office for pick up.

Compliance with the CMS final HCBS regulations may result in one or more of the following:

1. Amendments to Idaho's 1915(C) waivers (Aged and Disabled Waiver, Developmental Disabilities Waiver, Children's Developmental Disability Waiver, Act Early Waiver)
2. Amendments to Idaho's 1915(i) State Plan services
3. Revisions to the Idaho Administrative Procedure Act (IDAPA) § 16.03.10

Notice of the HCBS transition plan will be discussed at the quarterly Tribal meeting February 5, 2015.

Medicaid would like to receive your feedback regarding this notice prior to February 23, 2015.

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: Toll free at (855) 249-5024

Sincerely,

LISA HETTINGER
Administrator

LH/tm

#7 PHONE MESSAGE FROM THE COMMENT LINE

A phone line was established for the duration of the comment period where stakeholders could leave comments. The following message was what was heard by any caller.

Phone Message for Comment Line

1/15

Hello. Thank you for calling the Idaho State Transition Plan comment line for home and community based settings. You will not receive a direct response to your comment or questions. All comments or questions will be transcribed, saved and summarized in a final version of the State Transition Plan. The final version of the State Transition Plan will be available in late December. Your thoughts and time are greatly appreciated.

Please leave your message after the tone.

#8 HCBS SERVICE SETTING GAPS IN COMPLIANCE - IDAHO OFFERS WEBEX

Below is an invitation sent out to stakeholders inviting them to a WebEx meeting on January 14th. Idaho Medicaid has offered a series of WebEx meetings for stakeholders. At each meeting an update has been given on the development of the Statewide Transition Plan.

You forwarded this message on 1/9/2015 9:23 AM.

From: HCBSSettings Sent: Mon 1/5/2015 2:47 PM

To:

Cc:

Bcc: 'AARP-Cathy McDougall (CMcDougall@aarp.org)'; 'Cory Lewis'; 'Courtney Holthus'; 'DEANA GILCHRIST'; Hettinger, Lisa - Medicaid; 'Jeff Weller (ICOA)'; 'Jim Baugh (Jbaugh@disabilityrightsidaho.org)'; 'Kara Craig (kcraig@firstchoiceboise.com)'; 'Katherine Hansen (katherine.hansen@cp-of-idaho.com)'; 'Kris Ellis (KrisEllis@Cableone.net)'; Leary, Paul J. - Medicaid; 'Molly Steckel'; 'Pam Eaton (pameaton@idahoretailers.org)'; 'Paula Barthelmess (paula.barthelmess@cocofidaho.com)'; 'Rep John Rusche, MD'; 'Rep. Fred Wood'; 'Sen. Lee Heider '; Shaw-Tulloch, Elke D.- CO 4th; Simnitt, David - Medicaid; 'Tina Bullock'; 'Tom Fronk (TFronk@idahopca.org)'; 'Toni Lawson'; 'Yvette Ashton';

Subject: HCBS Service Setting Gaps in Compliance - Idaho Medicaid offers WebEx Wednesday, 1-14-15 at 1:00 pm, MT

Hello,

Idaho Medicaid is holding a WebEx meeting to discuss the new Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) Final Rule as it applies to non-residential Medicaid home and community based service settings. Those settings include any setting where the following services are offered:

- Developmental Therapy
- Adult Day Health
- Community Crisis
- Supported Employment
- Day Habilitation
- Habilitative Supports
- Habilitative Intervention

The WebEx will be held on Wednesday, January 14, 2015 at 1:00 pm, Mountain Time. This meeting will provide an overview of the gaps in compliance Idaho Medicaid currently has in these service settings based on the project's in-depth analysis 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. Further assessment of the service settings will occur at a later date. This is a preliminary only.

Feel free to pass this invitation on to others who may be interested in attending. Log-in information is posted below. There is no pre-registration for this meeting. Please sign onto the WebEx 15 minutes prior to the scheduled start time. We hope you will join us!

Topic: HCBS Service Setting Gap Analysis

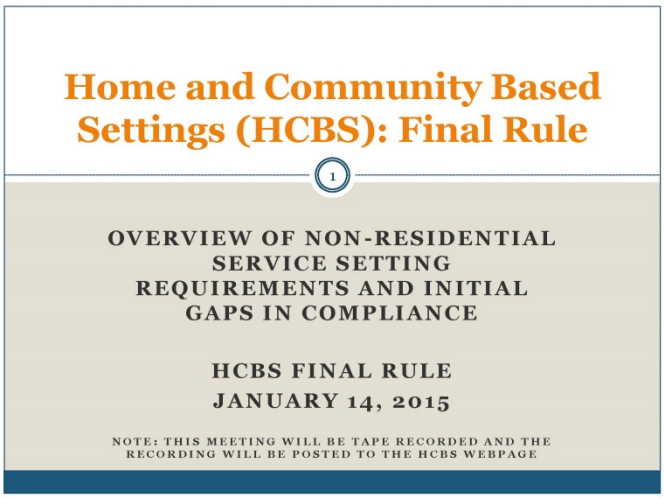
Wednesday, January 14, 2015 1:00 pm, Mountain Time (Denver, GMT-07:00)
Event number: 669 909 035
Event password: HCBS
Event address for attendees: https://idahohomechoicemfpevents.webex.com/idahohomechoicemfpevents/onstage/g.php?d=669909035&t=a
Audio conference information
US TOLL: 1-650-479-3207
Access code: 669 909 035

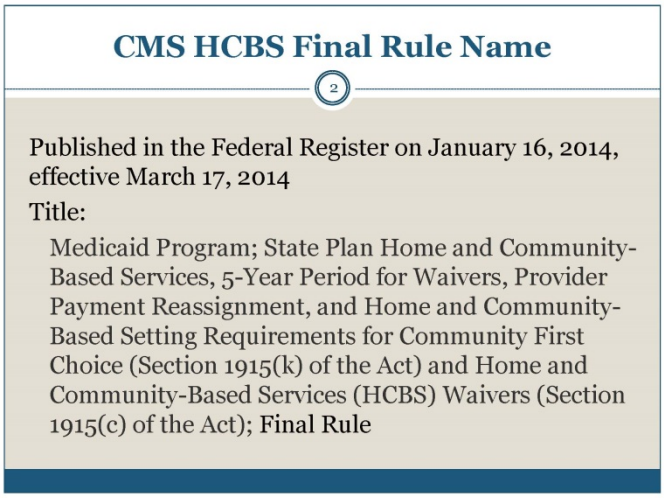
http://www.webex.com

IMPORTANT NOTICE: This WebEx service includes a feature that allows audio and any documents and other materials exchanged or viewed during the session to be recorded. You should inform all meeting attendees prior to recording if you intend to record the meeting. Please note that any such recordings may be subject to discovery in the event of litigation.

WEBEX SERIES 6:

The WebEx below was held on January 14, 2015. Slide 19 contains information about the upcoming dates for reviewing and commenting on the Transition Plan. Slides 20 and 21 contain the information on how to submit comments. All WebEx presentations are posted on the state's HCBS webpage.





Who Does this Rule Impact?

3

The new CMS HCBS rule impacts

- Participants receiving HCBS services
- Medicaid providers providing HCBS services
- People involved in developing HCBS service plans

Providers will be required to comply with the new guidelines in order to continue receiving payment for Medicaid Waiver, State Plan PCS, and State Plan DD participants.

Topics for Today's Meeting

4

Today we will:

- Review the new requirements for non-residential settings where home and community based services (HCBS) are provided.
- Describe the steps the State will take to complete an assessment of non-residential service settings.
- Summarize the initial gaps and plans for remediation Idaho Medicaid intends to take to strengthen compliance where needed.
- Solicit your thoughts and/or questions.

Summary of the Non-Residential Setting Requirements

5

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:

- The setting is integrated in and supports 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.

Summary of the Non-Residential Setting Requirements cont.

6

- The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting.
  - The setting options are identified and documented in the person-centered service plan and are based on the individual's needs preferences, and, for residential settings, resources available for room and board.

Summary of the Non-Residential Setting Requirements cont.

7

- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimizes but does not regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- Facilitates individual choice regarding services and supports, and who provides them.

Can These be Modified or Changed?

8

No. The requirements for the non-residential settings where HCBS services are offered can not be modified or changed.

If it is determined a setting does not meet HCBS setting requirements, participants will be notified and, if necessary, will be provided with assistance in finding alternative service settings.

Steps in the Assessment Process

9

1. Gap Analysis - review of existing rules and process (described in more detail on the next slide)
2. Non – residential provider meetings (February – April 2015) to discuss setting requirements and solicit input
3. Rule promulgation for changes to IDAPA in 2016
4. Provider toolkit and provider trainings are developed and shared.
5. Rules approved by legislature expected to go into effect July, 2016
6. Initial assessment for rule compliance will begin.

Description of Gap Analysis Process

10

Areas reviewed:

- Idaho Rule
- Service definitions
- Licensing and certification requirements
- Provider agreements
- Provider qualifications
- Individual plan monitoring requirements
- Utilization review practices
- Provider monitoring/participant outcomes

Areas reviewed:

- Provider reporting
- Performance outcome measurement/outcome reviews etc.
- Person centered planning requirements and documentation
- Training requirements
- Waiver and state plan language
- Operational protocols

Services Without a Detailed Analysis

11

- Several service categories from Idaho's 1915(c) and State Plan 1915(i) programs did not have gaps related to HCB setting requirements. The state has determined that many of our HCBS services are highly medical/clinical in nature, self-directed, for the purchase of goods/adaptations or provided by providers who have no capacity to influence setting qualities. Therefore, for these services, a detailed analysis was not necessary.

Service Settings To Be Discussed Today

12

A gap analysis for services and settings where the following services are offered :

- Developmental Therapy
- Adult Day Health
- Community Crisis
- Supported Employment
- Residential Habilitation – Supported Living
- Day Habilitation
- Habilitative Supports
- Habilitative Intervention

Approach for Today's Presentation

13

Due to the cumbersome nature of the analysis for each of the settings where the eight services are offered, today we will review only the four recommendations made in the gap analysis.

The specific gaps/remediation plan by service type will be included in the next version of the Statewide Transition Plan to be posted on the HCBS webpage beginning later this month.

Changes to be Made to Support Compliance

14

Gap: For several requirements, existing quality assurance and monitoring activities were found to be insufficient to capture the new requirements.

Remediation: Medicaid will enhance existing quality assurance/monitoring activities and data collection for monitoring.

Changes cont.

15

Gap: For several requirements, the state lacks sufficient regulatory support to enforce the new HCBS requirement

Remediation: Medicaid will initiate the rule promulgation process to recommend changes to IDAPA 16.03.10.

Changes cont.

16

Gap: For several requirements, the state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."

Remediation: Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS."

Changes cont.

17

Gap: For congregate settings, the state feels it may be challenging for providers to know how to meet integration requirements and difficult for the state to know how to assess and monitor for integration.

Remediation: Develop standards on integration for congregate settings.

So is the assessment now complete?

18

No.

This gap analysis is step one in the assessment process.

Once rules are passed in 2016, additional assessment activities will be initiated.

Monitoring will be ongoing after that.

What's Next?

19

- The Transition Plan with the timeline for all activities will be posted January 23 – Feb. 22 at www.HCBS.dhw.idaho.gov; you are encouraged to review and to submit comment.
- Medicaid will continue outreach efforts and trainings with providers on the new requirements beginning in February.
- The Transition Plan will be submitted to CMS for approval in March, 2015

How to Comment on the Draft Transition Plan

20

- The draft Transition Plan will be posted at www.HCBS.dhw.idaho.gov January 23 – February 22. There you will see an option to email your comments to the program.
- Hard copies of the Transition Plan will be provided in all Regional Medicaid offices and in Central Office for review.
- A toll free phone line will be set up beginning Janauray 23rd for receiving comments: Call 1-(855) 249-5024.
- You may email comments on the Transition Plan directly to the program at: HCBSSettings@dhw.idaho.gov

How to Comment on the Draft Transition Plan cont.

21

Written comments can also be sent to:

HCBS
Division of Medicaid
P.O. Box 83720
Boise, ID 83720-0009

FYI: Important Resource

22

CMS has published fact sheets, webinars and regulatory guidance at the following website:

http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

It has everything and anything CMS has available on the new regulations.

23

QUESTIONS or Comments?

Attachment #2 – Public Comments to the HCBS Settings Transition Plan Posted in October 2014

Table of Contents

Introduction **2**
Comments Submitted and Responses **2**
Provider Reimbursement/Blended Rates 4
Access to the Community and Settings that Isolate 6
Education and Input from Participants and their Families 8
Person Centered Planning 9
Access to Services 10
Quality of Care 12
Other: Addition of Expanded Services 13

Introduction

The Idaho State Transition Plan was posted for public comment on October 3, 2014, on the Idaho Home and Community Based Services (HCBS) webpage, in all regional Medicaid offices statewide, and in the Medicaid Central Office. Public comments were accepted from October 3, 2014, through November 2, 2014. The public was invited to submit comments electronically via e-mail, in writing via a letter or fax sent to the Division of Medicaid, or through voicemail.

Notes on methodology for capturing comments: Comments are grouped by topic and within each section comments of a similar nature may be grouped together with a single response provided for each group. Comments from a single person that covered multiple issues may have been divided into topics as noted above; however, written comments are included verbatim, with the exception that general comments (such as introductions or thanking the Department for the opportunity to comment) have been removed. Also, references to any specific person by name have been removed.

Persons Submitting Comments

Eleven individuals submitted comments during the first comment period. Commenters included representatives from the Idaho Council on Developmental Disabilities, DisAbility Rights Idaho, providers, and participants.

Comments Submitted and Responses

Challenges with Compliance for Providers

Comments in this section center on the federal regulations that set out specific requirements for HCBS settings. As such, many comments do not specifically address the Idaho transition plan per se, but rather are seeking clarification or interpretation of the federal regulation.

COMMENT: "Freedom to pick their roommate - This is extremely problematic. With the mentally ill in co-ed buildings there would be all kinds of stuff. If we allow hetero sexual co-habitation and things don't work out, the number of abuse complaints would be significant, putting the provider at great risk. If we can't use our best judgment on appropriate roommates, you will have to relax abuse criteria. These people want to room together, and when they get pissed at each other we won't have the man power to referee. Homo sexual couples can be just as challenging. Then there is the whole issue of responsible party and guardian issues. Just saying if they get into it in the middle of the night, that is not a psych hospital discharge. They are rooming together, tough it out. Your current policy prohibits any kind of sexual relationships for persons with certain diagnosis; this is really an all or nothing situation. I can see additional risk to providers under existing survey protocols."

COMMENT: "Unrestricted access to food - This is a health care facility, many clients have restricted diets. Again the provider is expected to limit patients' access to restricted foods. Also, the provider is limited from charging extra for food, so who is going to pay for this? If we are not responsible for the health effects and don't have to pay for anything other than what's currently required, I guess you can do what you want but when people practically eat themselves to death, we need to be held harmless."

RESPONSE: A modification to the transition plan was not made based on these comments. Instead, Medicaid has developed a series of frequently asked questions (FAQs) as a result of questions to assist providers and others in understanding what the rules are, why they are important, and how the state plans to assist providers in coming into compliance. Those FAQs will be posted to the HCBS webpage by the end of February 2015.

Settings Assessment

Comments in this section are centered on the approach to assessment of settings as described in the draft transition plan.

COMMENT: "Recent activities of the Idaho Council on Developmental Disabilities (ICDD) in surveying people receiving HCBS/developmental disability services have revealed widespread practices by Medicaid providers which restrict individual choice and freedom. These include restrictions on access to food, and allowing participants to receive phone calls or respond to surveys. Even when current Medicaid rules might prohibit the restrictions, such practices persist and may be commonplace. The transition plan should include a plan to investigate the prevalence of such practices and the development of proper oversight and enforcement."

COMMENT: "Ensuring that Idahoans with disabilities have full access to their communities, and control over their lives and homes, is a high priority for DisAbility Rights Idaho. We believe that the approach to this transition should be much broader than the review of current state facility rules. Many Medicaid rules, practices, and payment rates have a profound effect on whether people receiving HCBS services can achieve community integration and self-determination within their own homes.

The comment process being used by the Department of Health and Welfare (Department) is very technical and generally inaccessible to many consumers and stakeholders. The series of webinars have consisted of a recitation of the Department's conclusions that certain rules either do or do not have provisions which relate to the new federal regulations. Without finding and reviewing the rules involved, commenters cannot determine whether they agree with the findings or not. The plan consists only of statements to address in some unspecified way the areas of current rules identified as "gaps". Consumers, family members, and even some providers cannot make meaningful comments on such a plan. DisAbility Rights Idaho concurs with the recommendation of the ICDD on improving the comment process.

The transition plan should contain more than a statement of identified gaps in Idaho Medicaid rules, and the process should include more than a review of the rules' text."

COMMENT: "Determining whether Idaho Medicaid complies with the community integration mandate must explore actual conditions and experience of participants in HCBS settings. It must also review rate structures to determine whether they encourage or prevent integrated settings and practices, and how other factors such as cost sharing may impede access to community activities compared to people who are not HCBS recipients."

RESPONSE: The state has added links to state rule (IDAPA) as well as to each waiver so readers may access those documents for reference. Based on the comments received, we have also added clarifying language about how Idaho plans to complete the assessment of the HCBS settings. The first step in Idaho's assessment was an analysis of current rule, policies and procedures, provider training, and monitoring processes to identify where there are gaps. The second step in the process will be to implement rule support to fill identified gaps. The third step will be to complete an assessment of settings. Assessment of actual conditions identified will begin in 2016. While the approach for this assessment has not yet been finalized, it is likely to include on-site assessments, provider surveys, and information gathered from HCBS participants about their HCBS experiences and setting. The HCBS team is currently working in collaboration with providers, advocates, and participants to determine the best way to complete the setting assessment.

See the "Provider Reimbursement/Blended Rates" section below for more information on a review of rate structures.

Provider Reimbursement/Blended Rates

Comments in this section are centered on requests for Medicaid to consider the impact that provider reimbursement rates and fiscal policies have on providers' ability to meet the new setting requirements.

COMMENT: "Under current law the home that I live in and the handicap van I own are not considered a resource for Medicaid. The problem with Idaho's personal needs allowance is that it does not allow a participant to use his own income to repair, maintain, insure, or even sometimes use the home or vehicle.

I live in my own home but do not drive and require a caregiver to drive me to church, the movies, my son's band concert, and other activities in the greater community. I was told by a previous home healthcare provider that these types of caregiver hours were not included in my Uniform Assessment Instrument. I was required to privately pay for these caregiver hours. I think I should have the same rights as a Medicaid participant living in a certified family home or a residential assisted living facility.

I don't believe I'm allowed control over how my resources are spent to the same extent that a non-HCBS person living in the greater community has over their resources.

I feel like I am being institutionalized in my own home."

COMMENT: "Cost sharing provisions of the HCBS/A&D waiver can also seriously impair the choices of participants as expressed in this comment we received from one of our clients:

(Author of this comment then went on to quote the comment above, "Under current law….." verbatim)

COMMENT: "Quality #5 **-** Since prior to 1985 providers have served the greater community with quality providers; however, the current rate of pay is not comparable to the more restrictive environments which provide the same type of care (i.e., supportive living, home health, self-direct)."

COMMENT: "Quality #6 - The providers serving the intellectually disabled on the traditional waiver at a rate of $53.39 per day has NOT seen a rate increase since 1999. The intensive care which is paid at a much higher rate in other more restricted settings should be a rate that is being paid to providers in private homes to develop the option for all participants."

COMMENT: "Health and Safety - If it is an issue due to providers then the Department has not up held the greater communities' needs by ensuring quality providers are being developed and paid a fair and equitable amount for their services to provide the professional skills required to serve the greater communities in the state of Idaho. If it is 'health and safety' on the part of a participant looking to live in a private home then, again, the Department has not ensured that certified family homes have maintained the professional skills required to serve the greater communities to meet the participants' needs in the least restrictive environment by failing to develop quality homes for the greater community.

In conclusion, it appears that the clients in the state of Idaho with any type of intense medical needs or behavioral needs are not being provided quality supports in the least restrictive environments and being placed in a more restrictive setting with supports being financially funded. The state of Idaho has failed to maintain quality providers and supports with the professional skills to serve the greater communities with intense medical needs or behavioral needs in the least restrictive settings. Prior to 2008, the quality professional providers with skills and supports were funded to maintain clients in the least restrictive settings and were allowed the 'freedom of choice'. It appears that 'health and safety' is not the issue, but lack of access to providers with the professional skills to provide the services to meet the needs of the greater communities. It appears that a more restrictive environment is more financially feasible for the state of Idaho than to provide the necessary supports and the financial funding to maintain quality professionals with the skill sets to provide the services to individuals with intense medical needs or behavioral needs. Certified family homes (non-family members) are the least restricted environment but, yet, the most self-supported, Department-controlled, and underfunded program in the state of Idaho. Now we have an access issue and a quality issue that appears to be very apparent and restrictive to the communities in the state of Idaho and appears to be hidden by the words 'health and safety'."

COMMENT: "Determining whether Idaho Medicaid complies with the community integration mandate must explore actual conditions and experience of participants in HCBS settings. It must also review rate structures to determine whether they encourage or prevent integrated settings and practices, and how other factors such as cost sharing may impede access to community activities compared to people who are not HCBS recipients."

COMMENT: "In almost every category there is verbiage about new minimum standards for providers and enhanced quality assurance/survey processes. I assume any rules will have to be approved by the legislature. Seriously, after the false promises of the Department eight years ago, why would we not oppose anything that did not have some financial relief and, at a minimum, a fiscal impact to the providers. As we have discussed, certified family homes and residential assisted living facilities have been asked to do more with less for too long now. We are certainly struggling with obtaining additional

funding, but it's always easier to stall or kill something than to get more money. I hope the Department will recognize our funding dilemmas and use this HCBS effort to fix that at the same time. If not, it's hard to see why we wouldn't oppose this."

COMMENT: "Reimbursement rates for services can create unintended barriers to community integration. 'Blended rates' for Section 1915(i) services which pay the same rate for individual and group services creates a strong incentive to provide services in groups or in segregated centers. Center-based and group services can have the effect of limiting individual choices and preventing participation in community settings."

RESPONSE: The Department evaluates provider reimbursement rates and conducts cost surveys when an access or quality indicator reflects a potential issue. The Department reviews annual and statewide access and quality reports. In doing so, the Department has not encountered any access or quality issues that would prompt a reimbursement change for any of the HCBS services. Because we are committed to ensuring that our participants have access to quality HCBS services, we have published administrative rules in IDAPA 16.03.10.037 that detail our procedure on how we evaluate provider reimbursement rates to comply with 42 U.S.C. 1396a(a)(30)(A) to ensure payments are consistent with efficiency, economy, and quality of care. Should criteria in rule be met, the state will evaluate provider reimbursement rates.

In regard to 1915(i) services, Developmental Therapy, the type, amount, frequency, and duration of developmental therapy is determined through the person-centered planning process. The person-centered planning process requires that the plan reflects the individual's preferences and is based on the participant's assessed need. Providers of individual and group developmental therapy must deliver services according to the person-centered plan to ensure that individual choice is not limited.

Access to the Community and Settings that Isolate

Comments in this section are centered on when there is too much or too little access to the community, how transportation impacts integration, how the Department will determine isolation versus integration, and what is best for each individual.

COMMENT: "What kind of feedback are you getting as far as item #3 on page 8 of 20 on the draft plan? It's a little concerning to me to see the language used in survey questions #3a-c to possibly identify facilities such as mine that primarily have residents with disabilities as institutional, or is that not the intent of those questions? I participated in most of the conference calls and I remember quite a discussion on the isolation issue, but I don't recall there being language specific to facilities designed specifically for people with disabilities. Please advise."

RESPONSE: The language on page 8 under item # 3 is language provided to the states by CMS as guidance about how to determine if a setting isolates. We initially used those questions to try to assess residential assisted living facilities and decided it was not an effective measure for Idaho. That is when Idaho Medicaid began meeting with providers to gather information about what is done to ensure facilities do not isolate residents from the community. We have taken that input from providers and drafted standards which were sent to providers for review before a second stakeholder meeting on

November 18, 2014. Idaho Medicaid has revised the drafted standards and disseminated them to the stakeholder group for final comments before submission to Medicaid administration. It will become part of our second version of the transition plan which we hope to publish in February 2015, once it is approved.

COMMENT: "Hello, we have two sons with autism; one is a 19 year old that has been in an intermediate care facility home for the last two years. Our 10 year old this last year saw a dramatic cut in services on the new children's program. Basically, we have not been completely satisfied in the amount and choices of our services. Our 10 year old needs constant and continuing support and help, but it seems we have to jump through hoops and only do what's 'listed' and not have our own needs met for him - like facility resources. You can only take him so much out in our small community before he gets bored and needs something else to do. I understand the need to be in the community but sometimes that is not the best fit for him. We just want more choices and I did feel like the cut in hours per week was a joke.

Our oldest son's group home does try to help him achieve his goals, but there again we feel like they could do more. We have had to go and take him to a few community activities and really have had to call and persuade them to take him to those. We want to switch him soon to a place closer to us so we hope we can get what we need for him. He can do a whole lot more chores or activities at the home than he does, so that will be a good thing to work for.

We do appreciate the help for our boys, but sometimes it is so hard to even just go through all the paperwork and meetings and screenings and questionings... it does get overwhelming and emotional, especially when the health and welfare workers don't show the respect and understanding that is needed."

RESPONSE: The regulation ensures that individuals receiving HCBS are given opportunities for, and provided with, access to the larger community. The regulation does not require individuals to participate in activities in the community to any extent greater than the individual chooses. Since their inception, Medicaid HCBS programs in Idaho have been designed to serve individuals in integrated settings. The federal regulation seeks to ensure that services and supports delivered through HCBS programs are truly integrated. The regulation assures that individuals will have choice in where they live and from whom they receive services. If an individual chooses to live in a setting that is not integrated and as such does not qualify as an HCBS setting, then funding through a source other than Medicaid HCBS will need to be arranged, or the individual may have to move to an integrated setting that does qualify for HCBS.
COMMENT: "Medicaid transportation can have a huge effect on a person's ability to make personal choices about the services they receive. The current contract with American Medical Response and its implementation restrict a participant's choice of provider and the place where the service is received by limiting transportation to the closest Medicaid provider site to offer the service. This may pose another hidden barrier to participant choice and community integration, in violation of the CMS regulations. The issue is not addressed in the plan."

RESPONSE: Non-emergency medical transportation is a service that Idaho provides through a brokerage program in accordance with 1902(a)(70) of the Social Security Act and 42 CFR 440.170(a)(4). If needed, non-emergency medical transportation can be approved to transport participants to the following HCBS services: developmental therapy, community crisis, day rehabilitation, habilitative intervention, and habilitative supports. In order to ensure non-emergency medical transportation is delivered in the most cost effective manner, IDAPA requires that the transportation be approved to the closest provider available of the same type and specialty. If a participant is denied non-emergency medical transportation to a provider of their choice, the participant is able to submit supporting documentation explaining the reason/need for them to be transported to a further provider. This documentation will be reviewed and necessity will be determined through the appeal process.

Additionally, adult participants on the Developmental Disability and Aged and Disabled waivers have access to non-medical transportation which enables a waiver participant to gain access to waiver and other community services and resources. Non-medical transportation funds can be used to receive transportation services from an agency or an individual or to purchase bus passes. The non-medical transportation service does not have the same requirements related to closest Medicaid provider associated with it.

At this time, Idaho Medicaid does not anticipate it will be necessary to modify the current transportation services as a result of the new HCBS regulations.

Education and Input from Participants and their Families

Comments in this section are centered on how to better engage persons with disabilities in the process of developing and implementing the transition plan and most importantly in assessing settings for compliance.

COMMENT: "It is recommended that the ICDD be carved out as an additional resource to provide education to individuals with disabilities and families about the HCBS rules. While the WebEx series hosted this past summer was a method to reach a broad number of stakeholders statewide, it is not an accessible means to provide information in a meaningful way to individuals with disabilities and families. Additionally, due to the high level manner in which the plan was presented, it is difficult to engage individuals and families in public comment for the plan. The ICDD recommends a collaborative approach with the Department to host a series of public forums statewide.

The ICDD could work with the Department to host public forums in key locations for individuals with disabilities and families. The investment in the education of individuals and families should be made to ensure informed public comment by the people most important within HCBS settings. Since approval of the transition plan by CMS is linked so strongly to garnering a volume of public comment, it is in the best interest of the state to have the ability to report they brought individuals and families together for public comment."

COMMENT: "With regard to federal requirement #7 which states: 'An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected', the ICDD has

significant contact with individuals with disabilities who frequently report on issues relating to privacy, control over roommates, finances, daily schedules, etc. within their individual HCBS settings. The ICDD recommends developing a mechanism to meaningfully assess individuals with disabilities about the amount and quality of integration taking place within Medicaid funded HCBS settings. Information regarding this area should not be limited to provider self-assessment. It is imperative that the state receive feedback from people who live in these settings to learn if in fact there is no gap. The ICDD recommends collaborating with ICDD who will work directly with informed individuals with disabilities to conduct public forums with individuals with disabilities.

These public forums are recommended to be held in a consistent and on-going manner using a peer-to-peer model. The ICDD could assist in the development of a plain language survey to conduct public forums. It has been our experience that many, not all, but many individuals with disabilities are more likely to discuss issues related to their HCBS services when provided an opportunity outside of the provider service and among peers. Engaging individuals with disabilities will assist in the overall approval of the state transition plan."

COMMENT: "The Collaborative Workgroup on Adult Developmental Disability Services is an existing stakeholder group who has worked together to constructively influence the development of the adult developmental disabilities service system since November 2011. The Department has been a committed and valued member since the beginning of this work. It is recommended that the Department begin to educate and collaborate with the workgroup to discuss and plan for implementation strategies for the HCBS rules. This collaboration will also assist with providing multiple outlets for sharing accurate information and gaining ownership in the successful implementation of the rules."

RESPONSE: Idaho Medicaid agrees that further collaboration is needed. As a result, Medicaid will now have an HCBS project team member attending the monthly collaborative workgroup meetings to provide updates and solicit input and feedback. Additionally, Medicaid has now organized monthly meetings with ICDD and DisAbility Rights Idaho to identify ways in which we can collaborate in this work. We hope to be a part of forums to be held next year and to agree on a strategy for continued cooperative work to the do the best we can to assess and enforce full compliance with the new regulations.

Person Centered Planning

Comments in this section are centered on the person-centered planning process currently in place in Idaho Medicaid. As such, these comments are not directly related to the transition plan.

COMMENT: "The ICDD understands that CMS is not requiring states to include information regarding person-centered planning within the transition plan. However, the ICDD strongly encourages the state to review the current structure for implementing person-centered planning, including best practice education to professionals conducting person-centered planning. The ICDD encourages the state to review how current techniques are actually being implemented and where there may be gaps in providing best practice service delivery for person-centered planning. These gaps may include reviewing the current rate structure that supports the time investment required for plan developers to produce

high quality person-centered planning. Again, this area would be a natural collaboration between the Department and members of the collaborative workgroup."

COMMENT: "CMS has not required states to submit a transition plan on how the state conducts person-centered planning. However, the person-centered planning process is a key part of the community integration process and the new CMS regulations include changes to the language describing requirements for person-centered planning. It will not be possible for Idaho to comply with the HCBS rules without proper implementation of changes to person-centered planning processes. In order to be in compliance with the CMS regulations Idaho will need to change the person-centered planning process in several HCBS programs. This issue is not addressed in the plan.

Idaho Medicaid imposes limits on the cost of services for each individual in HCBS waivers and in adult developmental disability services under section 1915(i) of the Social Security Act. These limits are called individual budgets. The budgets set upper limits on the total cost of services for each individual. The budgets are determined differently in each waiver. However, in every case the budgets are set in a process which is prior to, and independent of, the person-centered planning process. The CMS rules address individual budgets only in the context of self-directed services, but the budgets have the potential to affect each person's ability to participate in community integrated activities. People whose budgets force them to access only center-based or group services do not have the ability to choose individual or community integrated activities to the same degree as people who are not dependent on HCBS services. This issue is not addressed by the transition plan.

For some individuals, the combination of individual budgets and rate incentives can effectively require them to spend all or most of their day in segregated or disability group activities. The same effect can be seen in HCBS developmental disabilities waiver models when individual budget limitations force a person to utilize mostly or only group-based services. The transition plan does not address these issues."

RESPONSE: Per CMS directive, information on person-centered planning is not included in the transition plan. Idaho's assessment of, and compliance with, the new person-centered planning requirements will occur outside of the HCBS transition plan work and will be a transparent process that seeks public input where appropriate.

Access to Services

Comments in this section are centered on perceived barriers to access to services.

COMMENT: "In 2008 there were 1089 certified family home providers. At that time 70% were non-family member providers and 30% family members, roughly. A large majority of the non-family member providers were individuals who were prior Idaho State School and Hospital employees, certified nurses' aides, nurses' aides, individuals who worked in the institutional settings and many who had completed other courses to meet the needs of the greater community. However, as most individuals know, the tables have turned and now roughly 70% are family members taking care of family and 30% are non-family member providers which mean roughly 650 homes are available in the state of Idaho to provide care for the communities. Many of which are new providers which appear to be without the

professional skills to serve the greater communities of Idaho. It appears in the last five to six years we now have a dilemma of issues which impact 'freedom of choice':

Access Barrier #1 - Certified family home data for vacancy openings is inaccurate, time consuming and frustrating to many trying to access a private home.

Access Barrier #2 - Due to the length of time it takes for Department approval/denial many individuals do not have that time to wait. The Department can take up to 30 days.

Access Barrier #3 - In the webinar # 5 it was stated that the Department will maintain approving or denying placement due to 'Health and Safety' issues. Currently, the Department certifies a home as being safe and effective for a fee of $300 and new providers pay a fee of $150. Therefore, the interpretation would appear to mean that the certification has no value.

Access Barrier #4 - There is no system or quality assurance in place to ensure that the participants who do not have the capacity to make decisions does not have influence, coercion, self-referral, or conflict of interest from others to make a decision on the participant's behalf. This, therefore, causes a barrier to access to freedom of choice without having informed consent or proper representation from a non-interested party such as a guardian, power of attorney for health care, or guardian ad litem, etc.

Access Barrier #5 – 'Health and Safety' issue as stated is why the Department wants to continue to approve/deny participants' access to private homes. It would appear that there is a serious shortage of qualified providers to serve the greater community. It would appear that the populations being served through certified family home non-family members is very limited as to the services it can provide therefore limiting the number of homes available to serve the greater public and leaving limited choices, which would place a participant at higher risk of being placed in a more restricted setting in the community due to the lack of qualified homes.

Access Barrier #6 - If an individual has a representative, guardian, or non-interested party for representation then the individual should not have to have a Department approval/denial for placement. It is restricting the 'freedom of choice' to a participant who has an appointed individual representative to make those choices on their behalf."

RESPONSE:

Pre-approval is a check to ensure:

- the provider has the necessary qualifications to meet the resident's needs
- the correct number of providers in the home to provide the 24/7 care, also to ensure substitute caregiver qualifications are met if the provider is out of the home, assistance in evacuating residents in case of fire, etc.
- the resident would fit in with the other residents in the home and are in agreement with the additional placement if that is the case
- the certified family home staff checks to see if the home is compliant with the Americans with Disabilities Act, if that is the need

- Medications – no medications will be administered; i.e. injections, sublingual, etc. – just assisting the resident with their medications

The Department approval process ensures that participants and their representatives or guardians are able to choose from among service providers that meet Department standards for health and safety.

There is no known access problem for certified family homes in Idaho. As of December 8, 2014, there were 354 vacancies in certified family homes. All seven regions of the state had multiple vacancies at that time. Department staff ensure that any person seeking a certified family home is provided the support and information needed to secure an appropriate certified family home placement. The Department has a quality assurance system that generates for state review, information related to access, health and safety.

The Department will continue to monitor access and should it become a problem, action will be taken at that time. The Department has a robust monitoring system for certified family homes which includes an on-site visit once a year. Any areas of concern are addressed through the Department's corrective action and sanctioning processes pursuant to IDAPA 16.03.19.910 – 16.03.19.913.

Quality of Care

Comments in this section are centered on perceived quality issues within the HCBS program.

COMMENT: "Quality #1 - The Department states 'Health and Safety' as the reason approval has to occur before an individual moves into a private home. It appears that the population of providers available to serve the greater community is limited to individuals who require less intense care which is limiting the greater community to options of service. It appears that anyone with intense cares is limited to a more restrictive environment.

Quality #2 - Since prior to 1985 homes were being developed to serve not just the intellectually disabled but the greater community by requiring individuals to meet a certain criteria. Prior to 2008, a majority of the providers were non-family member providers. Now the criteria has changed making it almost impossible to find a private family home that is qualified to provide services to the greater community.

Quality #3 - Since 2008, it appears the Department has done nothing to improve the quality of providers serving the greater community. Therefore, restricting the number of private homes available to serve any individuals in the greater community and serving only a limited population.

Quality #4 - Due to the lack of quality providers because of 'health and safety', the private homes available to serve anyone with intense medical or behavioral issues have limited options as to their 'freedom of choice' and it appears that more and more are being sent to a more restrictive setting such as supportive living, ICF/ID, or nursing home care.
Quality #5 - Inserted in section on provider payment.
Quality #6 - Inserted in section on provider payment.

Quality #7 - It appears even though a provider pays a certification fee annually the choices are restricted to a limited population the provider is allowed to serve due to 'health and safety' issues which means there is no value to being certified.

Quality #8 - 'Health and safety' is the quoted issue as to why the Department is maintaining restriction and access to private homes as the setting. If quality homes were being continually developed to serve the greater community then it would appear there would be a limited number of 'Health and Safety' problems in the private home settings."

RESPONSE: The Division of Licensing and Certification is responsible for ensuring all requirements to be a licensed provider in the state of Idaho are met. Those requirements apply for all service recipients, not just people receiving Medicaid. Medicaid is responsible for ensuring that all requirements to provide services to Medicaid members receiving HCBS are met. They are two separate and distinct sets of rules. Under the new HCBS regulations, changes required of providers to maintain compliance will not replace or override health and safety standards that are currently in place for Idaho providers. Idaho Medicaid and Licensing and Certification engage in complimentary work which ensures that Medicaid participants receive quality services and that the provider-owned residences in which they receive those services meet minimum standards for health and safety. Additionally Department staff ensure that any person seeking a certified family home is provided the support and information needed to secure an appropriate certified family home placement. The Department has a quality assurance system that generates for state review, information related to access, health and safety.

Other: Addition of Expanded Services

Comments in this section are related to requests to add new services not currently offered in Idaho.

COMMENT: "We are a family with a son who currently benefits from Medicaid support for his diagnosis of low-functioning autism. We have been involved with many autism groups throughout the years and we are advocates for making sure our son receives safe, appropriate services as well as receives the respect that he deserves.

I'm also a Principal Investigator for research supported by the National Institutes of (mental) Health to evaluate better ways for select Medicaid recipient populations to gain access to healthcare, including use of telemedicine, patient monitoring technologies, and assistive technology to help some of our most needy behavioral health populations, while cost-effectively assessing their health and education needs and progress.

Generally, the state's draft assessment and plan to address identified gaps to federal requirements, including remediation steps, is well done and the recommendations and timelines make good sense. We request the state to consider adding to 'remediation' steps where appropriate to include providers and Medicaid recipients be allowed and encouraged to use technology to improve oversight of each individual's services; reduce isolation; and, in select cases, better document effective treatment for individuals in residential or other HCBS services. This would include adopting better reimbursement policies for use of these tools, and the clinicians and therapists who use these tools to bridge the gaps of

services for Medicaid recipients who lack resources or services to where they are physically living now. Incentives may be even offered for providers who can show that use of these technologies is even better for the Medicaid recipient than conventional services.
I can provide some additional case studies and justification for specific uses of technologies if there is interest to consider this further."

RESPONSE: It is not likely that at this time services will be expanded to cover payment of assistive technology not currently covered. Adding new services is outside the scope of this work and the Department is not able to consider this request at this time.

COMMENT: "The CMS rules allow person-centered planning processes to authorize exceptions to the new rules in settings which are provider owned or controlled, such as certified family homes and residential and assisted living facilities. The rules do not allow for a similar exception in non-provider owned settings such as supported living or 'My Voice My Choice'. Idaho has made good use of these community integrated models for people with significant disabilities and significant behavioral issues. In Idaho's system these HCBS models serve participants who could not be served well in congregate care settings. The success of these placements sometimes depends on the ability of the provider to restrict certain activities, and choices, when those choices pose a significant threat to the safety of the participant, their roommates, or members of the public. The effect of these CMS rules could be to force these participants into less integrated and less appropriate congregate care facilities. Idaho needs to explore the creation of one or more care models which can recreate the advantageous community integration of the current supported living model, while allowing for legitimate safety based concerns. These settings could include allowing provider leasing or ownership of a residence in a two or three bed community residence which can restrict unsafe activities, or application for a 'Community Safety' waiver model under a non-HCBS authority such as section 1115 of the Social Security Act. Safeguards must be developed to ensure that these models are not used to restrict the choices of people who do not pose a legitimate and significant safety risk."

RESPONSE: The state is continuing to analyze the participant population receiving intense and high supported living services and how the HCBS requirements impact them. The following timeline outlines the tasks the state anticipates it still needs to complete in relation to this population.

Tasks	Proposed Date
Medicaid administrative decision on direction for the population receiving intense and high supported living	January 2015
Stakeholder coordination/communication	February 2015
Public input	April – June 2015
Develop authorities and IDAPA rule to support administrative direction	July 2015 – January 2016
Legislative approval of Medicaid administrative decision	February 2016
CMS approval of Medicaid administrative decision	March – June 2016
Implement approved rules and service(s) based on approved federal authority	July 2016 – January 2017

*Since the publication of these responses, the Administration has chosen a new direction. Please see information in body of transition plan.

Attachment 3: Public Comments to the Idaho HCBS Settings Transition Plan Posted in January 2015

Public Comments To

The Idaho HCBS Setting Transition Plan Posted in January 2015

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Introduction

The Idaho State Transition Plan was posted for public comment for a second time on January 23, 2015, on the Idaho Home and Community Based Services (HCBS) webpage, in all regional Medicaid offices statewide, and in the Medicaid Central Office. New information included changes based on the first comment period, a summary of those public comments, a summary of areas where the state's determination differed from public comment, the initial gap analysis of the non-residential HCBS settings, details of the assessment and monitoring approach for residential settings, standards for integration in residential settings, and an update on Idaho's work on residential habilitation services. Public comments were accepted from January 23, 2015, through February 22, 2015. The public was invited to submit comments electronically via e-mail, in writing via a letter or fax sent to the Division of Medicaid, or through voicemail.

Notes on methodology for capturing comments: Comments are grouped by topic. Within each section two or more comments of a similar nature may be grouped together with a single response provided for those comments. Comments from a single person that covered multiple issues may have been divided into topics as noted above; however, written comments are included verbatim, with the exception that general comments (such as introductions or thanking the Department for the opportunity to comment) have been removed. Also, references to any specific person by name have been removed.

Persons Submitting Comments

Nine individuals submitted comments during the second comment period.

Comments Submitted and Responses

Challenges with Compliance

Comments in this section center on the federal regulations that set out specific requirements for HCBS settings. It is the job of the state to ensure these federal requirements are met in Idaho. Many of the comments do not specifically address the Idaho Transition Plan, but rather are seeking clarification or interpretation of the federal regulation or are identifying challenges providers expect with compliance.

All of the requirements commented on below were set forth in Federal Legislation, § 42 CFR Part 441. They are not state specific requirements. Idaho Medicaid must ensure compliance with these requirements. Medicaid will develop a series of frequently asked questions (FAQs) as a result of the questions and comments below to help providers and others understand what the rules are, why they are important, and how the state plans to help providers come into compliance. Those FAQs will be posted to the HCBS webpage by the end of May 2015.

COMMENT: "Choice of a private room - Having the state ensure that participants are aware of options for a private unit is very disconcerting. If this assurance would require facilities to give all Medicaid clients the option of a single room the state must provide additional financial compensation. The number of AL (assisted living) providers in Idaho that would be able to financially provide for a Medicaid resident in a single unit are very, very few. There could be as few as one."

RESPONSE: The rule does not require every provider to have a private room option. Instead, it requires the state to ensure that there are private room options available within a state's HCBS program.

The Centers for Medicare and Medicaid Services (CMS) has made it clear in their FAQs, found at www.HCBS.dhw.idaho.gov, that the resident must have the OPTION of a private unit in a residential setting. The regulatory requirement acknowledges that an individual may need to share a room due to the financial means available to pay for room and board or may choose to share a room for other reasons. However, when a room is shared, the individual should have a choice in arranging for a roommate.

COMMENT: "Choice of roommates - Facilities must have input into roommate situations. If a roommate situation does not work out, the facility must have the ability to require a roommate change for the health and safety of the residents."

RESPONSE: The CMS's FAQs, found at www.HCBS.dhw.idaho.gov, state the "… individual's choice of roommate must be documented in the person-centered plan. The person-centered plan documents must show how choice was provided to and exercised by the individual. Conflicts should be addressed if they occur and mediation strategies should be available to address concerns."

COMMENT: "Freedom to control their own schedules and activities - The facility must be able to maintain the safety of the resident. If they have Alzheimer's or dementia, allowing the resident freedom to come and go as they please could put them in vulnerable situations. Facilities, by rule, offer activities. Residents should not be forced to attend an activity."

RESPONSE: Residents should not be forced to attend an activity. The expectation is that they be offered choices. Certainly all safety needs should be addressed in the person-centered plan and risks to health and safety mitigated there.

COMMENT: "Access to food at any time - The facilities need the ability to ensure that the food that is available is within the dietary restrictions of a resident. If the resident is diabetic, that resident would only have those foods available. Opening up the kitchen to the residents would be very problematic. If the resident is on a restricted diet or low salt diet, the facility needs the ability to have control over the amounts of food that are available. It cannot be a 24/7 'all you can eat buffet'. There are other safety concerns that need to be addressed with the access to food at any time, including access to knives, stoves, etc. that could be dangerous."

COMMENT: "Section 15 is simply unthinkable based on how individuals without any disability cannot make healthy or appropriate food choices. What of the individual with an intellectual disability that is diabetic or obese and is unable to comprehend the consequences of not following a diet or making healthy choices? Again, would any reasonable person allow a child to make that level of decision?"

RESPONSE: In provider-owned or controlled residential settings people must have 24-hour access to food. The intent of this requirement is to allow for access to food between scheduled meals and to prevent arbitrary limitations on access to food. It is reasonable to plan for snacks during the day or via

other means that allow participants access to food between meals. If there is a justified and agreed upon dietary modification in place that is documented in the person-centered plan then this requirement would not apply to that person. Medicaid and CMS currently have FAQs posted addressing these concerns. Please see current FAQs posted at www.HCBS.dhw.idaho.gov. Additional FAQs will be added by the end of May 2015.

COMMENT: "Section 7 refers to freedom from coercion and restraint. What if the person who engages in self-injurious behavior or destruction of property? Restraint may be the only way to afford them protection from themselves. A mechanism needs to be in place to allow for safety concerns in this area."

RESPONSE: In a provider-owned or controlled residential setting, states must ensure that any necessary modification to the rights of individuals receiving services is based on individually assessed need and such justification is documented in the person-centered plan as described in § 42 CFR section 441.301(c)(4)(vi)(F). In other settings, the individual must be afforded the rights of privacy, dignity and respect, and freedom from coercion and restraint. The person-centered plan must reflect risk factors and the measures in place to minimize them, including individualized back-up plans and strategies.

COMMENT: "I fully agree with the concept of section 13; however, this is not always feasible when you have the restriction of financial limitations and physical limitations. For example, an individual may choose to live with a friend but the property involved is not adaptable to more than one person or is not accessible to the person if they are physically challenged. It may simply not be possible to live with just anyone of their choosing. I would agree that if they do not want to live with a particular person that options should be explored for other opportunities."

RESPONSE: The goal of this requirement is to help the person meet their desired living arrangement. Exploring current barriers and setting out a plan to address those barriers must be attempted. If resources or other barriers are insurmountable, that can be documented and alternatives explored in the person-centered plan.

COMMENT: "Section 16, referring to visitors - no mention is made to the appropriateness of the visitor or gender issues with individuals who are not equipped to make appropriate interpersonal relationship decisions."

RESPONSE: CMS provided the following response related to a similar comment in their FAQs: "An individual's rights, including but not limited to roommates, visitors, or with whom to interact, must be addressed as part of the person-centered planning process and documented in the person-centered plan. Any restrictions on individual choice must be focused on the health and welfare of the individual and the consideration of risk mitigation strategies. The restriction, if it is determined necessary and appropriate in accordance with the specifications in the rule, must be documented in the person-centered plan, and the individual must provide informed consent for the restriction."

COMMENT: "Supported employment - Some MI/DD (Mental Illness/Developmental Disability) residents in ALs (Assisted Living) are not physically capable or have the mental capacity to maintain a job. Also, some court appointed residents have restrictions on whom they can be around. Rules need to clarify

that the facility and the resident via the NSA (Negotiated Service Agreement) agree on if employment is allowed and under what parameters."

RESPONSE: Residential assisted living facilities must not arbitrarily place restrictions on an individual's right to seek employment or receive supported employment services if they wish. However, home and community-based setting requirements do not supersede court-ordered rules or conditions related to court supervision. Prior to modifications related to home and community-based settings being implemented, an individual must provide informed consent. Any modification must be made through the person-centered planning process, be based on an individual's assessed need and be directly proportional to that specific assessed need.

COMMENT: "The transition plan states that individuals are to have the freedom and support to control their own schedules and activities. Again the judgment issue comes to mind. They should have control to the degree they have the ability to handle it."

RESPONSE: The state believes this to be true. However, if participant freedom to control their own schedules and activities is restricted because they require a restriction for health or safety reasons, then that should be documented in the person-centered plan.

Requests for Expanded Services

Comments in this section are related to requests to add new services not currently offered as an HCBS option in Idaho.

COMMENT: "For over 40 years, Idaho DHW has not included pre-vocational services in its state plan. Pre-vocational services may, if the state chooses to include sheltered work. I am requesting that Idaho Medicaid include that option in the plan currently under development. As I stated on the call, I am an advocate. I believe all people have both a right and an obligation to work.

Currently, approximately $4,000,000 in state general funds is used to provide extended employment services, defined as sheltered work and community-supported employment, for adults with severe disabilities. If the Department would add pre-vocational services to its plan as allowed by the federal government that $4,000,000 would become over $13,920,000. This would not cost the state one cent above what is already provided."

COMMENT: "Prevocational services need to be added to the transition plan and/or the HCBS service package. Service recipients need full access to the greater community, not just those on the waiver. Individuals who do not have the skills and experience necessary to participate in competitive employment need a vehicle to enhance their skills; which will allow them greater participation in the community, thus protecting their privacy, dignity and respect. This is a recommendation of the Employment First Consortium, endorsed by the Collaborative Adult Work Group, which needs to be included in the plan."

COMMENT: "Analysis of supported employment (A&D and Adult DD Waiver) - Until prevocational services are added to the HCBS service package I feel these recipients have less opportunity to 'full access to the greater community' than individuals not on the waiver. Individuals who lack the skills and

experience needed to obtain competitive employment need a vehicle to build those skills so that they can access the greater community in a way that their privacy, dignity, and respect are protected. Individuals who lack the skills and experience needed to obtain competitive employment need a vehicle to build those skills so that they can engage in community life. Some mal-adaptive behaviors require upfront training prior to service delivery in community-based employment to preserve these basic protections. Current practice by IDVR (Idaho Division of Vocational Rehabilitation) is to place clients who need long-term support on the wait list (which is years long) or encourage waiver employment which forces the individual out into the community before they may be ready. This can create long-term negative effects on the client and the business they are working for."

RESPONSE: The purpose of the HCBS transition plan is for states to describe to CMS how current HCBS services/settings are in compliance, or will come into compliance, with the new setting requirements. Through its work with the Employment First Consortium and Collaborative Workgroup on Adult Services, the state is exploring the benefit package for adults with developmental disabilities and the possibility of adding prevocational services. However, because prevocational services are not currently reimbursed in Idaho using HCBS funds, they are not within the scope of the state's transition plan on the new setting requirements.

Clarification for "to the same degree of access as…"

Comments in this section are addressing a desire for further clarification on how to define "….to the same degree of access as."

COMMENT: "The individuals participating in the HCBS Waiver program are there because they qualify for services in an intermediate care facility for individuals with intellectual disabilities. Inherent in this is the fact that these individuals have limited experience, judgment, logic, and other cognitive skills required to function independently in the community. Proposed in the plan is that these individuals should have the same degree of access to the community as individuals not receiving Medicaid services. I can agree with this if we include that they receive the same degree of access to the community as individuals not receiving Medicaid services and who are at the same functional level as the person not receiving Medicaid services. Most individuals qualifying for waiver services function at chronological ages far less than fully functional individuals of the same age. If, for example, an individual with an intellectual disability is functioning at a 5 year old's level, then their access should not be expected to be any different than a 5 year old child would have available. Certainly a 5 year old would not have full access to the community, to their food supply, to their money, or other resources. The proposed plan does not appear to take this into account and suggests to me that the plan proposes that individuals with intellectual disabilities should be afforded opportunities and experiences far beyond their ability and could place them in harm's way.

Specifically, allowing an individual the opportunity to engage in community life to the same degree as individuals not receiving Medicaid HCBS must be congruent with age appropriate activities and experiences."

COMMENT: "An individual with a functional ability of 5 years old, or 10 years old, or even 15 years old would not be allowed to control and direct their personal resources. It is unreasonable to expect that a 30 year old individual with a functional age of 5 or 10 years old could successfully direct their own resources without jeopardizing their personal health and safety. The plan needs to take this into account and have provisions for defining the 'same degree of access' so that we don't force individuals into activities that will jeopardize their personal health and safety. Failure to allow a person to have a representative payee could lead to disastrous results due to impulsive purchases or unplanned purchases. This could and probably would lead to a diminished quality of life."

COMMENT: "The 'same degree of access' cannot be determined at the setting level. This is established at the individual level and identified through the person-centered planning process. If the Department is going to establish this standard, they will need to determine what access 'individuals not receiving Medicaid HCBS' have in order to identify if a discrepancy exists and the underlying cause. In many cases, this is going to be related to individual choice by both those who are receiving HCBS and those not receiving HCBS."

COMMENT: "There appears to be a missing definition to the words 'the same degree of access as individuals not receiving Medicaid HCBS'. This is one definition I feel needs to be defined prior to any further progress in order to develop appropriate remedies to 'integration into the community'. Is the definition and intent of the definition available?"

COMMENT: "The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS. There is no support for this requirement for this service category. However, providers have no authority in IDAPA to influence a participant's control of personal resources. The state lacks standards for 'the same degree of access as individuals not receiving Medicaid HCBS.'"

RESPONSE: The intent of the regulations is that participants have the same degree of access as those not receiving Medicaid services. This standard applies to integration into the community, seeking employment and working in competitive integrated settings, engaging in community life, controlling personal resources, and receiving services in the community.

The state agrees to provide further clarification for "….to the same degree of access as". Tasks were added to the task plan and timeline as reflected on page 36 of the transition plan. The state expects to complete this work by May of 2015 and will include its recommendation in the next publication of the transition plan.

Compliance Timeline

Comments in this section are asking why Idaho has chosen the timeline it has for coming into compliance with HCBS setting regulations.

COMMENT: "Perhaps the biggest issue I have with the plan is with the time frame being proposed. That time frame takes us from where we are at now, through numerous steps including submission of the transition plan, through another gap analysis and comment period, through rule promulgation and rule

setting, etc. - with full compliance to be expected in early 2017. That is two years or more in front of the CMS deadline of 2019. The new CMS regulations are major system changes in how services are to be delivered and accessed by participants. There are certainly examples of the Department making decisions too hastily in the past, without obtaining and/or analyzing input provided, which have negatively affected providers and more importantly, those we serve. There is a lot of ground to be covered in making this system functional, appropriate and compliant with CMS regulations. Take the time necessary (and allowed) to do it right."

COMMENT: "States have until March 2019 to submit plans to the federal agency. Why is Idaho establishing a target date of January 2017?"

COMMENT: "I do believe that rule changes should be put off until the new processes coming out have been put into practice for a while so that the kinks can be discovered before they are put into rule."

RESPONSE: The regulation requires states to submit their statewide transition plans to CMS by March 17, 2015. It further states that all home and community-based settings must be fully compliant with the HCBS setting regulations by March of 2019. However, states are permitted flexibility in the timeline for coming into compliance as long as it is complete by the stated deadline. To reach compliance in Idaho, the following will occur:

- The transition plan will be submitted to CMS in March of 2015
- Rules will be promulgated during the 2016 legislative session
- Providers will be given until December of 2016 to reach full compliance
- The state will take one year to complete its initial assessment of home and community-based settings, January 2017 through December 2017
- Corrective action plans will be issued as needed. A corrective action plan initiated in December 2017 could take until March of 2018 to resolve
- Participants will be notified of any setting that is not or will not be HCBS compliant and they will be provided assistance in finding an alternate HCBS compliant setting
- All settings where a participant is residing or receiving services that are funded with HCBS dollars will be compliant by March of 2019

Medicaid believes it is important to complete the assessment process of setting compliance in this time frame so that participants have a reasonable amount of time to transition if needed. Assessment will take a full year. Assessment cannot begin before rule is promulgated and providers have time to comply.

Disagreement with Gap Analysis Results

Comments in this section are in regards to areas where the commenter disagrees with the state's initial gap analysis determinations.

COMMENT: "Room can be owned, rented, etc. and follows landlord-tenant law - Although there are no gaps identified here, the rules do require a facility to immediately discharge residents in certain instances. This should be reviewed in this context.

Overall, we need to keep in mind that people are in an assisted living facility because they need assistance. What this looks like is different for everyone. As these rules are developed we ask the Department to allow facilities to uniquely meet the needs of their community. Not be mandated to be all things to all people."

RESPONSE: The HCBS Project Team found that there was no gap for this requirement in residential assisted living facilities or certified family homes. The licensing and certification rules regarding immediate discharge of facility residents is comparable to the eviction proceedings in certain circumstances under Idaho landlord-tenant laws.

The state concurs that individual needs must be considered first and foremost.

COMMENT: "The transition plan states the setting '….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.' Idaho rule supports that an individual's initiative, autonomy, and independence in making life choices is facilitated in the home and community. However, standards for choice and autonomy in a center/congregate setting are not specified."

COMMENT: (In reference to initial gap analysis for development therapy - Adult DD 1915(i)) – "CMS 2249-F/2296-F is the final rule outlining the requirements for the qualities of settings that are eligible for reimbursement for the Medicaid HCBS provided under sections 1915(c), 1915(i), and 1915(k) of the Medicaid statute. In this final rule, CMS states, 'CMS is moving away from defining home and community-based settings by "what they are not," and toward defining them by the nature and quality of individuals' experiences. The home and community-based setting provisions in this final rule establish a more outcome-oriented definition of home and community-based settings, rather than one based solely on a setting's location, geography, or physical characteristics.'
The final rule requires that all home and community-based settings meet certain qualifications. These include:

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

The Department's assessment has determined that the setting (for Development Therapy - Adult DD 1915(i)) 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. Idaho rule supports that service settings are

integrated and facilitate community access.' As stated by the Department this is supported in current Idaho rule as well as the provider agreement for adult developmental therapy. No GAP exists and no remediation is necessary. The Department has gone beyond the CMS requirement and guidance in determining the need to establish 'integration' standards for center/congregate settings. No gap or remediation is necessary."

RESPONSE: The state agrees that there is no gap in relation to Idaho rule. However, the state is recommending developing standards for assessing if a setting optimizes but does not regiment individual initiative, autonomy, and independence in making life choices and if the setting is integrated in and supports full access of individuals to the greater community, specifically in center-based or congregate settings. The state is currently working with stakeholders to develop objective, measurable criteria that the state can use to assess and monitor compliance. The standards are also expected to help providers understand what the state's expectations are in a center-based or congregate setting.

The state disagrees that an analysis in not necessary for service settings where developmental therapy occurs. All settings in which an individual receives HCBS must have the qualities as outlined in 42 CFR Part 441. The purpose of the HCBS transition plan is for states to describe to CMS how current HCBS services/settings are in compliance or how they will come into compliance with the new setting requirements.

COMMENT: "The need for an in-depth gap analysis is not needed and is not necessary as the non-residential services of developmental therapy, adult day health, and waivered supported employment are currently meeting the new CMS definition of home and community-based setting provisions as described in the final rule. The Idaho State Transition Plan on Coming Into Compliance with HCBS Setting Requirements treats the non-residential services of developmental therapy, adult day health, and waivered supported employment as if the determination that they are provided in an institutional setting has been made. These are clearly home and community-based services! In this final rule, 'CMS is moving away from defining home and community-based settings by "what they are not," and toward defining them by the nature and quality of individuals' experiences. The home and community-based setting provisions in this final rule establish a more outcome-oriented definition of home and community-based settings, rather than one based solely on a setting's location, geography, or physical characteristics.' The changes related to clarification of home and community-based settings will maximize the opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting and will effectuate the law's intention for Medicaid HCBS to provide alternatives to services provided in institutions. The final rule requires that all home and community-based settings meet certain qualifications. These include:

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

I will comment on each of the above setting's qualifications currently found in Idaho's developmental therapy:

Adult day health and waivered supported employment services.

- The setting is integrated in and supports full access to the greater community.
    - Services are provided in settings centrally located within the community among, and in cooperation with, other businesses in modern facilities that resembles any other business of its size/scope.
    - Individuals are working on individually selected goals and/or on production of goods and services for the greater business community, similar to other businesses.
    - Participants are provided with an overview of options for settings/programs from which they choose.
    - Community integrated employment is discussed, encouraged, promoted at every staffing and the person is involved in making an informed choice.
    - Community-based therapy and adult day health activities are all designed to provide exposure to greater community, teach people how to access the community.
    - People are working side by side with people not receiving HCBS services to provide goods and services to customers. Program participants may include many other populations such as: individuals' referred by VR (vocational rehabilitation) for skills training; Veterans; individuals referred by the department of employment for skills training; individuals who are elderly; and individuals who are underprivileged and need assistance. Like the competitive employees, these individuals share work environments, breaks, and lunch with individuals funded by HCBS.
    - Services program provides community outings, volunteering in various integrated community settings, and individualized links to community; curriculum within the services program focuses on building community living skills including current events, money management, cooking, shopping, using social media, social skills training, etc.
- Is selected by the individual from among setting options.
    - All participants are provided with an overview of options for setting/programs, both by service coordinators and program staff, and as a part of the person-centered planning process the team makes an informed choice regarding the setting that meets their budget resources, needs, and preferences. The person-centered plan is reviewed at least annually to ensure that it is still reflective of the choices of the planning team.
- Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint.
    - All services are subject to Idaho Code 66-142 and 66-143 which establishes these rights for all clients participating. Clients have a right to a full investigation of any violation and providers are required to have established procedure for people to file a complaint if they feel their rights have been violated. The Department requires policies and work place practices are in place to ensure people are treated with dignity, respect, and freedom from coercion and restraint.
- Optimizes autonomy and independence in making life choices.

- The person-centered plan demonstrates the person is involved in their goal setting, that the person's team is presented with options and makes an informed choice; participation in all programs is voluntary; the work setting is similar to any other work setting, with people free to choose how they will spend their lunch breaks, who they will interact with, etc. Independence and individual problem solving are encouraged within the program. (Some individuals, based on their person-centered plan, may need additional supervision or assistance during their lunch break to ensure their personal safety and assist them with mobility, eating, toileting, etc.).

- Facilitates choice regarding services and who provides them.
  - The person-centered plan documents the options that are provided and the person's team is able to choose their services and supports and who provides them. The team can choose services and supports within the approved budget. The person has the right to change services or providers at any time.

The above responses to the service settings align with CMS's outcome-oriented definition of home and community-based settings and clearly show that developmental therapy, adult day health, and waivered supported employment are within the definition of home and community-based services, and as such do not need to be included in the detailed gap analysis of the Idaho State Transition Plan. Developmental therapy for adults, adult day health, and supported employment are currently provided in settings that meet the CMS outcome-oriented definition of home and community-based settings."

COMMENT: "As noted in the CMS Fact sheets: Home and Community Based Services dated 2014-01-10 …CMS specifies that service planning for participants in Medicaid HCBS programs under section 1915(c) and 1915(i) of the Act must be developed through a person-centered planning process that addresses health and long-term services and support needs in a manner that reflects individual preferences and goals. The rules require that the person-centered planning process is directed by the individual with long-term support needs, and may include a representative whom the individual has freely chosen and others chosen by the individual to contribute to the process. The rule describes the minimum requirements for person-centered plans developed through this process, including that the process results in a person-centered plan with individually identified goals and preferences. This planning process, and the resulting person-centered service plan, will assist the individual in achieving personally defined outcomes in the most integrated community setting, ensure delivery of services in a manner that reflects personal preferences and choices, and contribute to the assurance of health and welfare. The state of Idaho has established this process within the state's service delivery model.

In addition to this action, Idaho rules governing HCBS, resulting licensing requirements, and periodic reviews; and related provider agreements provide all the opportunities called out by CMS for HCBS participants. Idaho HCBS participants have opportunity to:

- Access regular, meaningful non-work activities in integrated community settings for the period of time desired by the individual.
- Establish individual schedules that focus on the needs and desires of an individual and an opportunity for individual growth.

- Have knowledge of or access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. outside of the setting, and who in the setting will facilitate and support access to these activities.
- Move about inside and outside of the setting.
- Access visitors or other people from the greater community (aside from paid staff).
- Access employment settings where individuals have the opportunity to participate in negotiating his/her work schedule, break/lunch times and leave and medical benefits with his/her employer to the same extent as other individuals employed in that setting.
- Access and control his/her funds and/or receive support services that will facilitate financial management.
- Access to and training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location. If public transportation is limited, access to information about resources for the individual to access the broader community, including accessible transportation for individuals who use wheelchairs.
- Access tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services.
- Access settings that are physically accessible, including access to bathrooms and break rooms; settings that have appliances, equipment, and tables/desks and chairs at a convenient height and location; settings with no obstructions such as steps, lips in a doorway, narrow hallways, etc. limiting individuals' mobility in the setting.
- Access to settings selected from among setting options including non-disability specific settings. The settings options are identified and documented in the person-centered plan and are based on the individual's needs and preferences, reflect individual needs and preferences, and ensure the informed choice of the individual.
- Access to setting options that include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA.
- Select setting options that include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week (e.g., combine competitive employment with community habilitation).
- Access settings that ensure an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.

- Access settings that ensure information about individuals is kept private and subject to confidentiality rules.
- Access settings that ensure that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed, while providing assistance during the regular course of daily activities.
- Access settings that ensure that staff do not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not present.
- Access settings where policy requires that the individual and/or representative grant informed consent prior to the use of restraints and/or restrictive interventions and document these interventions in the person-centered plan.
- Access settings where policy ensures that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting and/or restrictive to the rights of every individual receiving support within the setting.
- Access settings that offer a secure place for the individual to store personal belongings.
- Access settings that optimize, but do not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact.
- Access settings that afford the opportunity for tasks and activities matched to individuals' skills, abilities, and desires.
- Access settings that facilitate individual choice regarding services and supports, and who provides them.
- Make a choice regarding the services, provider, and settings and the opportunity to visit/understand the options.
- Regularly and periodically update or change their preferences.
- Make decisions and exercise autonomy to the greatest extent possible.
- Access settings where staff is knowledgeable about the capabilities, interests, preferences, and needs of individuals.

The state has been successful in meeting the current expectations of home and community-based children's developmental disability services, adult day health, developmental therapy, and supported employment. The state's transition plan currently does not reflect this position and should be modified to do so. The Department is subjecting these services to a higher level of scrutiny than is necessary.

The state needs to recognize that choice trumps integration per the American's with Disabilities Act

and Olmstead decision. The state has established a process where HCBS participants can make an informed choice and as such is compliant with the CMS requirements for home and community-based services. The state needs only the courage to stand up for the rights of HCBS participants to choose and make informed decisions that impact their lives."

RESPONSE: It is the position of Idaho Medicaid that there are many of the new requirements for which there is existing support in our rule language and/or operational protocols. We believe that, generally speaking, the Idaho Medicaid HCBS system is close to meeting the vision that CMS has established for HCBS participants. However, in order to meaningfully demonstrate to CMS that Idaho's HCBS settings meet these new requirements, we must establish standards by which we can assess settings against those requirements. As identified in our gap analysis, Idaho Medicaid does not have a mechanism to conduct assessment or ongoing monitoring for compliance with all of these requirements within its existing quality assurance structure. To do so, we must establish quantifiable measures of compliance and ensure that there is a common understanding among the provider base of how to comply. As indicated in guidance provided by CMS, the regulations and exploratory information are intended as a floor for states to individually implement their changes, not a ceiling. Idaho Medicaid is dedicated to ensuring that our HCBS participants receive services in the most integrated settings appropriate and will implement the necessary changes to do so. Regarding choice, the proposed changes do not conflict with the ADA or Olmstead. The state must ensure that settings where HCBS are furnished, and providers of HCBS, do not arbitrarily impose limitations on individual choice. Participants will not be forced to integrate in the community; however, they must have the choice to access the community to the degree appropriate to their needs as indicated in their person-centered plan.

COMMENT: "Given the definitions established by the state for supported employment, supported employment is competitive and integrated in the community. Access to employment is achieved through the same efforts as those who are not receiving Medicaid HCBS. The Department will have to identify instances where this is not the case in order to conclude the standard is lacking.

The Department can also show the state has taken action to increase access to employment through the recent legislative action to allow for additional resources through the budget setting process specifically directed to employment.

Specific to habilitative supports and intervention, the Department will need to look at adding additional measures given these services are provided to children up to the age of 18 but children under 18 do and are accessing employment. Supported employment through Medicaid is restricted to 18 and older. Access to those under 18 does not exist."

RESPONSE: The state is responsible for assessing settings. All settings in which an individual receives home and community-based services must have the qualities as outlined in 42 CFR Part 441. Having service definitions that meet a requirement or supportive rules in place are not enough. The state must demonstrate to CMS that each setting is following the rule and/or the intent of the service definition. To do that there must be objective, quantifiable proof of compliance. The purpose of the HCBS transition plan is for states to describe to CMS how current HCBS services/settings are in compliance or how they

will come into compliance with the new setting requirements. The state believes that an analysis is necessary for service settings where supported employment occurs.

The state agrees that habilitative intervention requires additional measures and has identified gaps and remediation regarding this requirement in the transition plan (please see page 11). The state identifies that it lacks quality assurance /monitoring activities to ensure the requirement is met. The state disagrees that an analysis is necessary for habilitative supports. Per IDAPA, habilitative support is not a service the child would receive while they are accessing employment.

COMMENT: "Supported employment providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply."

RESPONSE: The state agrees that supported employment providers have no capacity to control the participant's residential setting and that qualities related to private units in residential settings do not apply.

COMMENT: "Analysis of adult day health, analysis of day habilitation, developmental therapy, and supported employment – I believe to come into compliance in this area the transition plan needs to have more focus on how the setting relates to the individual (not just the setting in isolation), the needs of the individual, and the resources available. This could be done during the person-centered planning process which currently does take place. This would also be much more in line with the basic principles of Olmstead which defines a client's right to choose services for themselves that are appropriate to their needs and that are justified and necessary."

RESPONSE: CMS has instructed states that settings must be assessed against the setting criteria established in the regulations. This assessment process is in addition to meeting the requirements of the person-centered planning components of the new regulations. Idaho Medicaid is responsible for ensuring that settings where HCBS are furnished meet the new requirements. The HCBS settings must be structured in such a way that they do not arbitrarily impose barriers to participant choice, independence, and access to the community. This may include physical characteristics of the setting, programmatic characteristics of the settings' operations, or administrative activities that impact participants. Idaho Medicaid must have a method to demonstrate that HCBS settings are compliant with the regulations.

COMMENT: "Analysis of adult day health, analysis of day habilitation, developmental therapy, and supported employment - I believe that the state does meet this standard (An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected) through the enforcement of Clients Rights which specifically states that clients have the right to 'be free of physical restraint' and through the enforcement of agency Ethics Policies which address freedom from coercion – both of these rules are currently enforced by licensing and certification."

RESPONSE: As written in the gap analysis, the state agrees that this standard is supported in developmental disability agency rule. Rules in Chapter 16.03.21 pertain only to developmental disability

agencies and therefore do not apply to adult day health, day habilitation, or supported employment providers.

COMMENT: "Analysis of adult day health, analysis of day habilitation, developmental therapy, and supported employment - I believe that the state does meet this standard (the setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS) through the enforcement of Clients Rights which specifically states that clients have the right to 'wear his/her own clothing and to retain and use personal possessions' – this rule is currently enforced by licensing and certification."

RESPONSE: In relation to developmental therapy, the state agrees that IDAPA 16.03.21.905.01.g supports the participant's right to retain and control their personal possessions. The transition plan will be updated to reflect this rule support. Rules in Chapter 16.03.21 pertain only to developmental disability agencies and therefore do not apply to adult day health, day habilitation, or supported employment providers.

COMMENT: "Analysis of adult day health, analysis of day habilitation, developmental therapy, and supported employment - Initiative, autonomy, and life choices happen primarily outside of the service delivery setting as is testament to how services were selected in the first place. Within the habilitative setting clients have the freedom to choose, change, and adapt their service plan at any time; however, 'life choices' (which include entering or leaving an agency) happen primarily outside of the setting. Every morning the client chooses whether or not to attend services that day without any input or influence from 'the setting'. Current system supports participant choice."

RESPONSE: It is the position of the state that initiative, autonomy, and life choices occur both within and outside of service delivery settings. The intent of the new regulations is to ensure that participants' initiative, autonomy, and ability to make choices are protected. Currently, the state is working with stakeholders to define what that would look like in an objective and measureable way.

Access to Services

Comments in this section are centered on perceived barriers to access to services.

COMMENT: "There is still an access issue with the (CFH) vacancy list's accuracy. A system is a work in progress to develop a more adequate system to increase the accuracy of the vacancy list."

RESPONSE: The commenter's concern about the accuracy of the CFH vacancy list has been shared with the appropriate Division of Licensing and Certification staff. Addressing this concern is outside the scope of the State HCBS Transition Plan.

COMMENT: "It appears to be a great concern that certified family home providers are restricting integration access to the greater community when in fact it appears the Department has created restrictive measures on individuals looking to access community integration by failing to continue development of skilled professionals to provide the least restrictive environment. While the department has maintained approximately 2,012 certified family homes since 2010, of which

approximately 70% are family members taking care of family members, there are still another 30% who take care of non-family members with a significant shift in the number of skilled professionals to non-skilled professionals available to provide the services to the community throughout the state of Idaho, which in turn limits the number of homes available for the community to access the least restrictive environment."

RESPONSE: The Department has determined that the distribution of skilled versus non-skilled professionals operating certified family homes has not created an access issue for Medicaid participants wishing to access a certified family homes.

COMMENT: The commenter disagrees with the state's assessment that there is currently no gap in "Individual choice regarding services and supports, and who provides them." The commenter goes on to say, "This particular statement appears false for individuals seeking to live in a certified family home due to restrictive measures being placed by the Department. Therefore, the least restrictive environment is not available to the greater community based on 'health and safety.'"

COMMENT: "The Department maintains restrictive measures based on 'health and safety' yet on page 3 of 51, 'Setting is selected by the individual from among the settings options.' The certified family home settings are restricted to the greater community by the Department and appear to NOT be available by the individual due to the lack of skilled professionals available. Access is not available 'to the same degree of access as individuals not receiving Medicaid HCBS.' Private Pay/VA would have access to those homes and in some cases may have access to all the supports, training, etc. a provider may need to provide the appropriate services from a skilled professional."

COMMENT: "It appears that individuals seeking to live in a certified family home will be restricted access to the least restrictive environment due to 'health and safety' since homes have not been developed or maintained with skilled professionals to serve the greater community.

While federal guidelines for community integration are well defined and the state of Idaho's guidelines to meet those requirements appear to be lacking definition of 'the same degree of access as individuals not receiving Medicaid HCBS' and the intent of the definition along with the restrictive measures placed by the department based on 'Health and Safety'. It appears that more restrictions are being placed on individuals being served in the greater community and providers rather than finding solutions to remove those barriers and restrictions."

RESPONSE: Your concern that there is an access issue for CFHs was shared with the Division of Licensing and Certification. It was their determination that licensing and certification requirements regarding health and safety have not created an access issue for Medicaid participants wishing to access a certified family home. The Divisions of Medicaid and Licensing and Certification employ approval processes to ensure that participants and their representatives or guardians are able to choose from among service providers that meet Department standards for health and safety. As of December 8, 2014, there were 354 vacancies in certified family homes. All seven regions of the state had multiple vacancies at that

time. The Department will continue to monitor access and should it become a problem, action will be taken at that time.

Other Comments

Comments in this section cover a variety of additional topics.

COMMENT: "It appears that departments are supposed to be working together with the new HCBS transition plan yet it appears the departments are not. The financial impact is not considered part of this venue is my understanding according to the WebEx on January 23. Certified family home providers are not just stakeholders in the programs. We are financial stakeholders who financially support the entire program due to House Bill 260 yet we have the least amount of impact on changes."

RESPONSE: The Department evaluates provider reimbursement rates and conducts cost surveys when an access or quality indicator reflects a potential issue. The existing quality assurance process is designed to identify any indicators of quality or access issues. The Department reviews annual and statewide access and quality reports. In doing so, the Department has not encountered any access or quality issues that would prompt a reimbursement change for any of the HCBS services. Because we are committed to ensuring that our participants have access to quality HCBS services, we have published administrative rules in IDAPA 16.03.10.037 that detail our procedure on how we evaluate provider reimbursement rates to comply with 42 U.S.C. 1396a(a)(30)(A) to ensure payments are consistent with efficiency, economy, and quality of care. Should the criteria outlined in rule be met, the state will evaluate provider reimbursement rates.

COMMENT: "People with disabilities should not be denied the right to earn a pay check, pay taxes, and contribute to society. In Idaho it is an obligation they what to fulfil. In Idaho they have no right to do so. This right is allowed by federal leaders and regulations. It is restricted by Idaho state government."

RESPONSE: Idaho Medicaid agrees that people with disabilities should not be denied the right to earn a pay check, pay taxes, and contribute to society. Medicaid encourages a participant to be employed while maintaining their Medicaid health coverage through the Medicaid for Workers with Disabilities program. Individuals who participate in Medicaid for Workers with Disabilities get the same services they would under the Enhanced Plan. This option also: 1) Allows working Idahoans with disabilities to receive Medicaid benefits by paying a sliding-scale premium which is based on their income; 2) Allows Idahoans with disabilities to continue working or seek competitive employment without having to worry about losing health care coverage; and 3) Encourages Idahoans with disabilities to increase their independence and reduce their dependence on public assistance. Idaho Medicaid does not restrict or prohibit participants from seeking or retaining gainful employment. Both waiver programs serving adults offer a supported employment benefit, providing participants the supports needed to work in competitive, integrated settings.

COMMENT: "With respect to congregate settings and individual choice, the transition plan needs to focus on how the setting relates to the individual and the resources available, not how it relates to the setting in isolation. The person-centered planning process is where choices about community therapy should be made/identified by the individual. The ADA and DOJ (Department of Justice) definition of an

integrated setting, which should be used to evaluate any setting, focuses on offering access to community activities and opportunities at times, frequencies, and with persons of an individual's choosing. Their definition focuses on giving individuals choice in their daily life activities, and providing persons with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible."

RESPONSE: CMS has instructed states that settings must be assessed against the setting criteria established in the regulations. This assessment process is *in addition to* meeting the requirements of the person-centered planning components of the new regulations.

Regarding choice, the proposed changes do not conflict with the ADA or Olmstead. The state must ensure that settings where HCBS are furnished and providers of HCBS do not arbitrarily impose limitations on individual choice. Participants will not be forced to integrate in the community; however, they must have the choice to access the community to the degree appropriate to their needs as indicated in their person-centered plan.
All HCBS settings must be structured in such a way that they do not arbitrarily impose barriers to participant choice, independence, and access to the community. This may include physical characteristics of the setting, programmatic characteristics of the settings' operations, or administrative activities that impact participants.

COMMENT: "One major factor that needs to be considered before changes is the clarification in the role of guardians from CMS."

RESPONSE: Clarification has been requested from CMS. The state will be sharing that information once it is received via email and will add the information as an FAQ on the HCBS webpage. The web address for that page is www.HCBS.dhw.idaho.gov.

COMMENT: "There appears to be a draft plan for certified family home rules which I am having trouble understanding how it can be developed when the stakeholder comments, questions for consideration could have an impact on the new requirements without being considered for the draft plan."

RESPONSE: The certified family home rules currently under development (in IDAPA 16.03.19) are under the purview of the Division of Licensing and Certification. The new HCBS regulations impact the Division of Medicaid. While Idaho Medicaid and Licensing and Certification operate in tandem, they are distinct entities with different rule sets. Licensing and Certification has agreed to consult with the HCBS Project Team during the development of the certified family home rules to ensure that any changes made do not conflict with the intent or language of the new HCBS regulations. In addition, stakeholders will have the opportunity to provide feedback during the established rulemaking process, including making recommendations during negotiated rulemaking and/or public hearings. The promulgated rule making process allows for a 21 day comment period for the public after draft rules are posted. Comments are reviewed and revisions made prior to the rule docket publication for legislative approval.

COMMENT: "Administrative requirements could be a huge factor on the individual choice for a setting in community integration. It appears there is going to be more administrative burdens placed on individuals, guardian and providers."

RESPONSE: It is the state's belief that setting compliance may create only minor administrative burdens on participants or guardians. Idaho Medicaid does expect that some providers may have to make administrative or programmatic changes in order to meet full compliance with the new regulations. However, Idaho Medicaid will continue ongoing dialogue with the provider base in order to ensure providers understand the new requirements and how they may make changes that satisfy the new requirements. This is addressed in the transition plan timeline.

COMMENT: "Analysis of adult day health, analysis of day habilitation, developmental therapy, and supported employment - The landscape of the setting changes based on the individual program plan so maybe in this area the state could develop a checklist system for evaluating how the plan was developed including descriptors about why certain choices and/or restrictions were made. In the case of adult day health this area may need additional descriptors to ensure the clients understand that they can specifically request community activities through adult day services."

RESPONSE: Idaho Medicaid expects to develop tools for providers and for staff responsible for assessment and monitoring. Your idea of a checklist is a good one and may be incorporated there. In regard to adult day services, Medicaid along with stakeholders are currently working on standards for both integration and optimizing choice that will be applicable to this setting. Ultimately, it will become part of the assessment process used by Idaho Medicaid to ensure that settings where HCBS are furnished meet the new requirements. All HCBS settings must be structured in such a way that they do not arbitrarily impose barriers to participant choice, independence, and access to the community. This may include physical characteristics of the setting, programmatic characteristics of the settings' operations, or administrative activities that impact participants.

COMMENT: "Analysis of adult day health, analysis of day habilitation, developmental therapy, and supported employment - If this plan clearly adopted the Employment First recommendations as presented by the Idaho Employment First Consortium and endorsed by the Collaborative Adult Work Group many aspects of this regulation could be satisfied."

RESPONSE: Through its work with the Employment First Consortium and Collaborative Workgroup on Adult Services, the state is exploring the benefit package for adults with developmental disabilities and the possibility of adding prevocational services. However, because prevocational services are not currently reimbursed in Idaho using HCBS funds, they are not within the scope of the state's transition plan on the new setting requirements.

Attachment 4: Public Comments to the Idaho HCBS Settings Transition Plan Posted in September 2015

To be added once comment period has ended.

Attachment #5

Idaho State Transition Plan: Index of Changes

Introduction

Changes reflected below represent all major changes in content since the last publication of the Statewide Transition Plan in January 2015. They include:

- All changes made as a result of CMS comments received August 10, 2015
- Addition of new details determined since the January 2015 publication
- New information concerning the September 2015 publication, public noticing and public comments

Changes not reflected in this index are:

- Changes in tense or pagination
- Minor changes to section headings or content

Index of Changes

Section and page of revision	Change Description	Publish Date
Cover pages	Additional information about Transition Plan (v3), updated the Transition Plan Summary	9/11/15
Overview pgs. 1-2	Overview: information on comments received from CMS on the Transition Plan along with a link to those comments	9/11/15
Section 1 pgs. 2-5	Results of Idaho Medicaid's Initial Analysis of Settings: updated the introduction to this section, added tables to show exhaustive list of all service settings associated with each home and community based service	9/11/15
Section 1a pgs. 6-10	Gap Analysis of Residential Settings: added full IDAPA citations to gap analysis and noted if rule was silent. Additions were inserted in red.	9/11/15
Section 1a pg. 10	Gap Analysis of Residential Settings: updated information on settings where residential habilitation services are provided	9/11/15
Section 1b pg. 11	Initial Analysis of Settings Presumed to be Institutional: added information on the analysis of non-residential settings presumed to be institutional and addition of information about Children's Residential Care Facilities	9/11/15
Section 1b pgs. 13-14	Initial Analysis of Settings Presumed to be Institutional: addition of information on Idaho's analysis of non-residential settings presumed to be institutional	9/11/15
Section 1b pgs. 14-15	Initial Analysis of Settings Presumed to be Institutional: update on the Idaho Standards for integration in all settings	9/11/15
Section 1c pgs. 15-33	Gap Analysis of Non-Residential Service Settings: added full IDAPA citations to gap analysis and noted if rule was silent. Additions were inserted in red.	9/11/15

Section 2 pg. 35-36	State Assessment and Remediation Plan: new introduction to the section.	9/11/15
Section 2a pgs. 36-40	Plan for Assessment and Ongoing Monitoring of Residential and Non-Residential Settings: the state has completed its assessment and monitoring plan for non-residential settings and combined it with the plan for residential settings in this section. Additional information on the assessment strategy for RALFs and CFHs.	9/11/15
Section 2b pg. 40	Plan for Completing the Assessment of All Settings for Institutional Characteristics: updated information on the status of this assessment	9/11/15
Section 2c pgs. 41-45	Tasks and Timeline for Assessment of Residential and Non-Residential Settings: updated task status, added new tasks, modified some task timelines	9/11/15
Section 2d. pgs. 45-47	Tasks and Timeline for Assessment of Settings Presumed to be Institutional: updated task status, added new tasks, modified some task timelines, added a chart to illustrate the tasks and timeline for all compliance activities	9/11/15
Section 2e pg. 48	Plan for Provider Remediation: new section with new information	9/11/15
Section 2f Pgs.48-49	Plan for Participant Transitions: new section with new information	9/11/15
Section 2g pgs. 50-51	Tasks and Timeline for Remediation and Participant Transitions: updated task status, added new tasks, modified some task timelines	9/11/15
Section 3 pgs. 52-59	Public Input Process: updated to reflect current publication information	9/11/15
Attachments	• Attachment 1: Integration Standards for Provider Owned or Controlled Residential Settings with Five or More Beds - deleted • Attachment 2: Integration Standards for provider Owned or Controlled Residential Settings with Four or Fewer Beds – deleted • Current attachments have thus been renumbered • Attachment 5 has been added: An Index of Changes to the Transition Plan	9/11/15