

# **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**  
**Submitted to CMS and reposted as revised: October 23, 2015**

**Posted for Public Comment (v4): June 3, 2016 through July 4, 2016**  
**Submitted to CMS and reposted as revised: July 29, 2016**

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#### **Purpose**

The purpose of this posting is to provide public notice and receive public comments for consideration regarding Idaho Medicaid's Draft Home and Community Based Services (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](http://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](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](http://www.cms.gov) 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](http://www.HCBS.dhw.idaho.gov).

## **Public Comment Submission Process**

The state of Idaho, Department of Health and Welfare, Division of Medicaid has formally sought public input on the Statewide Transition Plan (STP) on four occasions. 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. On March 13, 2015, Medicaid submitted the STP to CMS for review. The third comment period was from September 11, 2015, through October 12, 2015. The STP was resubmitted to CMS on October 23, 2015. The fourth comment period is from June 3, 2016 through July 4, 2016.

Idaho Medicaid utilized the same strategies for soliciting feedback and comments on the STP for each of the four formal comment periods. Comments and input regarding the Transition Plan were accepted in the following ways:

- a) Copies of the STP were posted on the state's HCBS webpage. At that site, [www.HCBS.dhw.idaho.gov](http://www.HCBS.dhw.idaho.gov); in the right hand column there is an "Ask the Program" section. There stakeholders were able to use the **Email the program** tab to email comments directly to the program.
- b) By e-mail: [HCBSSettings@dhw.idaho.gov](mailto:HCBSSettings@dhw.idaho.gov)
- c) By sending 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 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. In cases where the state's determination differs from public comment, the additional evidence and rationale the state used to confirm the determination was added to the Transition Plan.

## **Transition Plan Summary**

Idaho completed its systemic assessment of its residential and non-residential HCBS service settings in late summer of 2014. This analysis identified program areas where the new HCBS regulations 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 are identified 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, as identified by CMS, in the fall of 2014. There are no residential service 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. In April 2016 that process was repeated with questions added related to isolation. This

assessment again found that there are no residential service settings in a publicly or privately owned facility providing inpatient treatment, or on the grounds of, or immediately adjacent to a public institution. However, six CFHs were identified as potentially having the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. Additionally the assessment of RALFS for potentially having the effect of isolating residents from the broader community of individuals not receiving Medicaid HCBS was not complete. Idaho will continue this assessment for RALFS through June, 2017.

Idaho completed the analysis of all non-residential HCBS against two of the three characteristics of an institution, as identified by CMS, in 2015. There were no non-residential service settings in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. In April 2016 that process was repeated with questions added related to isolation. This assessment again found that there are no non-residential service settings in a publicly or privately owned facility providing inpatient treatment, or on the grounds of, or immediately adjacent to a public institution. Additionally there were no sites identified as potentially having the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

Additional administrative rule (IDAPA) support for the HCBS requirements was promulgated during the 2016 legislative session and became effective July 1, 2016. Assessment of settings is expected to be completed by December 2017. A plan for provider remediation and a plan for 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 HCBS long-term services and supports 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 state launched an HCBS webpage, [www.HCBS.dhw.idaho.gov](http://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. A series of web-based seminars were also hosted July through September 2014 which summarized the new regulations and solicited initial feedback from a wide variety of stakeholders. A second series of WebEx meetings as well as conference calls was launched in April, 2016 and will continue through December, 2016. HCBS providers, participants, and advocates are invited to attend these seminars. 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 throughout this document.

The Transition Plan includes:

- A description of the work completed to date to engage stakeholders in this process
- A systemic assessment of existing support for the new HCBS regulations
- A plan for systemic remediation
- A plan for assessment of all residential and non-residential service settings
- A plan for provider remediation
- A plan for relocation of impacted participants
- A plan for on-going monitoring of all HCBS service settings
- 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 in 2015 and again in early 2016. The state has since developed responses to the comments and also incorporated changes into the Transition Plan to address concerns identified. The CMS letters, along with the state's responses, have

been posted on the state's webpage, [www.HCBS.dhw.idaho.gov](http://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 the Transition Plan were made prior to it being posted on September 11, 2015 and again on June 3, 2016. 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 7).

## **Section 1: Systemic Assessment and Systemic Remediation**

Idaho completed a preliminary gap analysis of its residential HCBS settings in late summer of 2014 and 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.

### **Please note two things about the systemic assessment of existing support:**

1. Idaho looked for existing support for each HCBS requirement to begin the gap analysis. If any support was found, that information was documented in the support row in the gap analysis tables. However, a reference to identified support DOES NOT necessarily mean the requirement is fully supported by the rule(s) cited. In some instances the rule support that was cited only partially supported the requirement and thus additional rule changes are noted in the remediation strategy. For example, IDAPA currently requires residential providers to offer residents three meals a day. The state considers this to be support for the requirement that individuals have access to food at any time, but only partial support. A number of the citations in the "support" column are from Licensing and Certification rules – Medicaid rules set a higher standard for those licensed and certified providers that serve Medicaid participants. Thus, the state identified that additional changes to IDAPA were needed.
2. Idaho acknowledges that this gap analysis 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 Three* 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 assessment of compliance.

The results of the gap analysis of residential settings were shared with stakeholders via a WebEx meeting on September 16, 2014. The results of the gap 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**

<b>Service Description</b>	<b>Applicable HCBS Qualities</b>	<b>Service Settings</b>
Adult Day Health	Non-residential	<ul style="list-style-type: none"> <li>• Adult Day Health Center</li> <li>• Community</li> </ul>
Behavior Consultation/Crisis Management	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• Adult Day Health Center</li> <li>• Developmental Disability Agency (DDA) Center</li> <li>• Certified Family Home</li> </ul>
Chore Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Environmental Accessibility Adaptations	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Home Delivered Meals	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Non-medical Transportation	Non-residential	<ul style="list-style-type: none"> <li>• Community</li> </ul>
Personal Emergency Response System	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Residential Habilitation – Certified Family Home	Residential – Provider Owned	<ul style="list-style-type: none"> <li>• Certified Family Home</li> </ul>
Residential Habilitation – Supported Living	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Respite	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• Adult Day Health Center</li> <li>• DDA Center</li> <li>• Certified Family Home</li> </ul>

Skilled Nursing	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• Adult Day Health Center</li> <li>• DDA Center</li> <li>• Certified Family Home</li> </ul>
Specialized Medical Equipment and Supplies	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Supported Employment	Non-residential	<ul style="list-style-type: none"> <li>• Community</li> </ul>
Developmental Therapy	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Community Crisis Supports	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• Certified Family Home</li> <li>• Hospital</li> </ul>
<b>Supports for Self Direction</b>		
Community Support Services	<ul style="list-style-type: none"> <li>• Non-residential</li> <li>• Residential – Provider Owned</li> </ul>	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• Adult Day Health Center</li> <li>• DDA Center</li> <li>• Certified Family Home</li> </ul>
Financial Management Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Support Broker Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>

***A&D Waiver Services***

<b>Service Description</b>	<b>Applicable HCBS Qualities</b>	<b>Service Settings</b>
Adult Day Health	Non-residential	<ul style="list-style-type: none"> <li>• Adult Day Health Center</li> <li>• RALF</li> <li>• DDA Center</li> </ul>
Day Habilitation	Non-residential	<ul style="list-style-type: none"> <li>• DDA Center</li> <li>• Community</li> </ul>
Homemaker	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Residential Habilitation	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Respite	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• RALF</li> <li>• Certified Family Home</li> </ul>
Supported Employment	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Attendant Care	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> </ul>

Adult Residential Care	Residential – Provider Owned	<ul style="list-style-type: none"> <li>• RALF</li> <li>• Certified Family Home</li> </ul>
Chore Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Companion Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Consultation	Non-residential	<ul style="list-style-type: none"> <li>• Community</li> </ul>
Environmental Accessibility Adaptations	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Home Delivered Meals	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Non-medical Transportation	Non-residential	<ul style="list-style-type: none"> <li>• Community</li> </ul>
Personal Emergency Response System	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Skilled Nursing	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Specialized Medical Equipment and Supplies	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>

**Children’s HCBS Services**

<b>Service Description</b>	<b>Applicable HCBS Qualities</b>	<b>Service Settings</b>
Family Education	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Habilitative Supports	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Respite	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Crisis Intervention	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Family Training	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Habilitative Intervention	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Interdisciplinary Training	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Therapeutic Consultation	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
<b>Supports for Family Direction</b>		
Community Support Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> <li>• Community</li> <li>• DDA Center</li> </ul>
Financial Management Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>
Support Broker Services	Non-residential	<ul style="list-style-type: none"> <li>• Home</li> </ul>

**1a. Systemic Assessment 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 are 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 Idaho’s plan on how to transition these settings into full compliance with the new regulations.

**Provider Owned or Controlled Residential Settings Gap Analysis**

<b>Federal Requirement:</b> <i>Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</i>	<b>Analysis of Idaho’s Residential Settings</b>		
		<b>Certified Family Homes (CFH)</b>	<b>Residential Assisted Living Facilities (RALF)</b>
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	Incorporate HCBS requirement into IDAPA 16.03.10.313. Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit. 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	Incorporate HCBS requirement into IDAPA 16.03.10.313. Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit. 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	Incorporate HCBS requirement into IDAPA 16.03.10.313. Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit. 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

Federal Requirement:	Analysis of Idaho's Residential Settings		
			her personal funds with the provider except with the consent of the participant.
	Gap	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS".	
	Remediation	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Develop best practice to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Rule (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	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Develop best practice to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p> <p>Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.</p>	
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for 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	<p>Department processes support that participants must sign the service plan that includes documentation that choice of residential setting was offered.</p> <p>Waivers and State Plan language support that the service plan development process must use the preferences of the participant and that the residential setting selection must be documented.</p>	<p>Department processes support that participants must sign documentation that the choice of a residential setting was offered.</p> <p>Waivers and State Plan language support that the service plan development process must use the preferences of the participant and that the residential setting selection must be documented.</p>
	Gap	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.	
	Remediation	Idaho will enhance existing quality assurance activities to ensure compliance. Idaho incorporated the HCBS requirement into IDAPA 16.03.10.317 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).	

Federal Requirement:	Analysis of Idaho's Residential Settings		
	Gap	None	
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10.313.	
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 16.03.10.317 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	Incorporate HCBS requirement into IDAPA 16.03.10.317	
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 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.	Support	Administrative rules governing Certified Family Homes (IDAPA 16.03.19.260, 16.03.19.200.10) require that the timeframes and criteria for transfer or discharge be described in the Admission Agreement.	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).
	Gap	Idaho rule requires a minimum 15-day notice of transfer or discharge from a CFH, but Idaho landlord tenant laws require a 3- or 30-day notice, depending on the circumstances.	None.
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10. Change the Admission Agreement requirements in IDAPA 16.03.19 to align with Idaho landlord tenant laws.  Enhance existing monitoring and quality assurance activities to ensure compliance.	

<b>Federal Requirement:</b>		<b>Analysis of Idaho's Residential Settings</b>	
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 16.03.10.314.  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 16.03.10.314.  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	Incorporate HCBS requirement into IDAPA 16.03.10.314.	
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 16.03.10.314.  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 16.03.10.314.  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	Strengthened support for this HCBS requirement by incorporating into IDAPA 16.03.10.314.	
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	Strengthened support for this HCBS requirement by incorporating into IDAPA 16.03.10.314.	

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 Three*. Regulatory changes in IDAPA to support HCBS requirements have been promulgated and go into effect July 1, 2016. Regulatory changes were necessary in order to allow enforcement. The site-specific assessment of settings will occur in 2017.

### **Non- Provider Owned or Controlled Residential Settings**

Idaho's residential habilitation services for adults 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. Systemic Assessment 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 Three* 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 assessment of compliance.

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

<p><b>Federal Requirement</b>  <i>Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</i></p>		<p><b>Habilitative Supports</b></p>	<p><b>Habilitative Intervention</b></p>
<p>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.</p>	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	<p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p> <p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p>	
	Remediation	<p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Strengthened IDAPA 16.03.10.313 to support this requirement.</p> <p>Develop best practice to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>	
<p>2. The setting includes opportunities to seek employment and work in competitive, integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.</p>	Support	None	Habilitative intervention providers have no authority under IDAPA to control a participant’s ability to seek employment.
	Gap	IDAPA is silent	<p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p> <p>The state lacks rule support for this requirement. IDAPA is silent.</p> <p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p>
	Remediation	This service benefit is for children who would not be seeking employment due to their age.	<p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Develop best practice to support provider compliance with this HCBS requirement. Include it in</p>

<b>Federal Requirement</b> <i>Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</i>		<b>Habilitative Supports</b>	<b>Habilitative Intervention</b>
			the HCBS toolkit.
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 best practices for integration for services provided in a congregate setting.  The state lacks best practices for “the same degree of access as individuals not receiving Medicaid HCBS.”	
	Remediation	Enhance existing quality assurance/monitoring activities and data collection for monitoring.  Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.	
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 best practices 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 16.03.10.313.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.	
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 best practices for integration for services provided in a congregate setting.	

<b>Federal Requirement</b> <i>Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</i>		<b>Habilitative Supports</b>	<b>Habilitative Intervention</b>
		The state lacks best practices for “the same degree of access as individuals not receiving Medicaid HCBS.”	
	Remediation	Enhance existing quality assurance/monitoring activities and data collection for monitoring.  Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.	
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).  IDAPA 16.03.21.915 describes the process used to implement authorized restraints.  These rules are monitored and remediated 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, best practices 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.

<b>Federal Requirement</b> <i>Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</i>		<b>Habilitative Supports</b>	<b>Habilitative Intervention</b>
			The state lacks best practices for integration for services provided in a congregate setting.
	Remediation	Enhance quality assurance/monitoring activities and data collection for monitoring.  Incorporated HCBS requirement into IDAPA 16.03.10.313.	Enhance quality assurance/monitoring activities and data collection for monitoring.  Incorporate HCBS requirement into IDAPA 16.03.10.313.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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	Incorporated HCBS requirement into IDAPA 16.03.10.313.	Incorporated HCBS requirement into IDAPA 16.03.10.313.

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

<b>Analysis of Adult Day Health (A&amp;D and Adult DD Waiver)</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	<p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p>
2. The setting includes opportunities to seek employment and work in competitive, integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.	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.”	<p>Strengthened IDAPA 16.03.10.313 to support this requirement.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
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.	<p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>

<b>Analysis of Adult Day Health(A&amp;D and Adult DD Waiver) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	Incorporate HCBS requirement into IDAPA 16.03.10.313.  Enhance existing quality assurance/monitoring activities and data collection for monitoring.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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."	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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

<b>Analysis of Adult Day Health(A&amp;D and Adult DD Waiver) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	<p>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.</p> <p>The A&amp;D waiver application indicates that use of restraints is prohibited.</p> <p>IDAPA 16.03.21.915 includes the process for implementing authorized restraints (applicable to Adult Day Health centers attached to DDAs).</p>	<p>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.</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p>
8. Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but is not limited to, daily activities, physical environment, and with whom to interact.	<p>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.</p>	<p>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.</p> <p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
9. Individual choice regarding services and supports, and who provides them, is facilitated.	<p>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.</p>	<p>IDAPA is silent.</p>	<p>Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.</p>

<b>Analysis of Community Crisis Supports (Adult DD 1915(i))</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	<p>The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>The state allows for crisis services to take place in an institutional setting. The state lacks sufficient regulatory support for this requirement.</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Do not allow service in an institutional setting.</p> <p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
2. The setting includes opportunities to seek employment and work in competitive, integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.	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.	<p>The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."</p>	<p>Strengthened IDAPA 16.03.10.313 to support this requirement.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	<p>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.</p> <p>This service functions to prevent a participant from losing access to community life because of a crisis.</p>	<p>The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>The state allows for crisis services to take place in an institutional setting. The state lacks sufficient regulatory support for this requirement.</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Do not allow service in an institutional setting.</p> <p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>

<b>Analysis of Community Crisis Supports (Adult DD 1915(i)) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	Incorporate HCBS requirement into IDAPA 16.03.10.  Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.	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.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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

<b>Analysis of Community Crisis Supports (Adult DD 1915(i)) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
7. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	<p>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.</p> <p>IDAPA 16.03.21.915, 16.04.17.405.08, include the process for implementing authorized restraints.</p>	<p>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.</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met. IDAPA is silent.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p>
8. Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but is not limited to, daily activities, physical environment, and with whom to interact.	<p>There is no support for this requirement for this service category.</p>	<p>The state lacks sufficient rule support for this requirement. IDAPA is silent.</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Do not allow service in an institutional setting.</p> <p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p>
9. Individual choice regarding services and supports, and who provides them, is facilitated.	<p>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.</p>	<p>IDAPA is silent.</p>	<p>Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.</p>

<b>Analysis of Day Habilitation (A&amp;D Waiver)</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	<p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.</p> <p>The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
2. The setting includes opportunities to seek employment and work in competitive, integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.	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.	<p>The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.</p> <p>The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
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.	<p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."</p> <p>The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>

<b>Analysis of Day Habilitation (A&amp;D Waiver)</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	<p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.</p> <p>The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
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.	<p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.</p> <p>The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
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).	<p>Idaho rule (IDAPA 16.03.10.328.04) supports that services/settings are selected by the participant based on their needs and preferences</p> <p>Day Habilitation providers have no capacity to control the participant’s residential setting. Private units in residential settings do not apply.</p>	None	N/A

<b>Analysis of Day Habilitation (A&amp;D Waiver)</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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 A&D waiver application indicates that use of restraints is prohibited.	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.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing quality assurance/monitoring activities and data collection for monitoring. Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.

<b>Analysis of Developmental Therapy (Adult DD 1915(i))</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	Incorporate HCBS requirement into IDAPA 16.03.10. Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring. Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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, 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."	Strengthened IDAPA 16.03.10.313 to support this requirement. Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.

<b>Analysis of Developmental Therapy (Adult DD 1915(i)) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.	<p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
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.	<p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>
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.	<p>The state lacks standards for integration for services provided in a congregate setting.</p> <p>The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”</p> <p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.</p> <p>Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.</p> <p>Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.</p>

<b>Analysis of Developmental Therapy (Adult DD 1915(i)) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.
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.  IDAPA 16.03.21.915 includes the process for implementing authorized restraints.	None	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.
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 16.03.10.653.04.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.	Incorporate HCBS requirement into IDAPA 16.03.10.  Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.

<b>Analysis of Residential Habilitation – Supported Living (A&amp;D and Adult DD Waiver)</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.”	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.”	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.”	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.	Incorporate HCBS requirement into IDAPA 16.03.10.  Enhance existing quality assurance/monitoring activities and data collection for monitoring.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.

<b>Analysis of Residential Habilitation – Supported Living (A&amp;D and Adult DD Waiver) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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.”	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.  IDAPA 16.03.21.915 includes the process for implementing authorized use of restraints.	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.
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	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.

<b>Analysis of Supported Employment (A&amp;D and Adult DD Waiver)</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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."	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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."	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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."	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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.	Incorporate HCBS requirement into IDAPA 16.03.10.  Enhance existing quality assurance/monitoring activities and data collection for monitoring.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.
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."	Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practices to support provider compliance with this HCBS requirement. Include it in the HCBS toolkit.

<b>Analysis of Supported Employment (A&amp;D and Adult DD Waiver) continued</b>			
<b>Requirement</b>	<b>Support</b>	<b>Gap</b>	<b>Remediation</b>
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	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.
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.  The Adult DD waiver, Appendix G, describes the process for implementation of restraints.  The A&D waiver application indicates that use of restraints is prohibited.	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	Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.

Due to the gaps identified above, Idaho is unable to determine 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.

## 1c. Systemic Remediation

Remediation Task	Start Date	End Date	Status
Develop best practice for "to the same degree of access as individuals not receiving Medicaid HCBS."	3/7/2016	7/15/2016	Complete: based on provider feedback Medicaid will include examples of best practice in the toolkit Within the tool kit the state will define "peers" as including individuals with and without disabilities (i.e. individuals who do not require supports or services to remain in their home or community, IDAPA 16.03.10.313)
Incorporate HCBS requirements into IDAPA 16.03.10.*	3/1/2015	2/1/2016	Complete: IDAPA rule promulgation with legislative approval. Effective 7/1/2016 To clarify for CMS and for the reader, in regards to the use of restraints, pending rule language (IDAPA 16.03.10.313) requires that goals and strategies used to mitigate risk (including restraints) must be documented in the person centered plan. The person centered plan must be finalized and agreed to by the participant, in writing, indicating informed consent.
Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	3/1/2016	12/31/2016	Individual programs will implement changes to existing QA activities to establish ongoing monitoring structures and mechanisms.
Revise operational processes to ensure participants are aware of options available for a private unit.	3/1/2016	12/31/2016	Individual programs will revise operational processes as needed to ensure that participants receive information about available options via the person-centered planning process.
Implement operational changes to ensure children moving into an institutional residential setting do not continue to receive HCBS funding for community-based services.	9/1/2015	7/1/2016	A systemic process across Departmental Divisions has been developed and was implemented on May 1, 2016 to ensure children who are HCBS funding eligible that are moved into a children's institutional residential setting do not continue to access HCBS funded services."
Enhance the Admission Agreement requirements in CFH rules, in IDAPA 16.03.19, with the HCBS requirement.	4/1/2016	7/1/2017	Rule promulgation process began April 2016.

The systemic remediation work will be complete July 1, 2017.

\* It should be noted that Idaho follows a very prescriptive process of negotiated rulemaking and public noticing when promulgating IDAPA rules. For these changes the public was notified about upcoming regulatory changes in a variety of formats: the Department posted proposed changes, hosted various in-person and video conference meetings with the public to discuss changes, accepted comments on proposed rule language on more than one occasion, documented those comments and modified rule language based on public comment. Information on upcoming rule changes was also published on the Idaho HCBS webpage with details on how to comment. In addition the STP published for comment in October 2014, the STP published for comment in January 2015 and the STP published for comment in September 2015 all identified that rules would be promulgated in the 2016 legislative session.

## 1d. 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:

<b><u>A&amp;D Waiver</u></b>	<b><u>Idaho DD Waiver</u></b>	<b><u>Children’s DD/ Act Early Waiver</u></b>	<b><u>1915(i) State Plan</u></b>
<ul style="list-style-type: none"> <li>• Chore Services</li> <li>• Environmental Accessibility Adaptations</li> <li>• Home Delivered Meals</li> <li>• Personal Emergency Response System</li> <li>• Skilled Nursing</li> <li>• Specialized Medical Equipment and Supplies</li> <li>• Non-Medical Transportation</li> <li>• Homemaker</li> <li>• Attendant Care</li> <li>• Companion Services</li> <li>• Consultation</li> <li>• Respite</li> </ul>	<ul style="list-style-type: none"> <li>• Chore Services</li> <li>• Environmental Accessibility Adaptations</li> <li>• Home Delivered Meals</li> <li>• Personal Emergency Response System</li> <li>• Skilled Nursing</li> <li>• Specialized Medical Equipment and Supplies</li> <li>• Non-Medical Transportation</li> <li>• Behavior Consultation/Crisis Management</li> <li>• Self-Directed Community Support Services</li> <li>• Self-Directed Financial Management Services</li> <li>• Self-Directed Support Broker Services</li> <li>• Respite</li> </ul>	<ul style="list-style-type: none"> <li>• Family Education</li> <li>• Crisis Intervention</li> <li>• Family Training</li> <li>• Interdisciplinary Training</li> <li>• Therapeutic Consultation</li> <li>• Family-Directed Community Support Services</li> <li>• Respite</li> </ul>	<ul style="list-style-type: none"> <li>• Family Education</li> <li>• Family-Directed Community Support Services</li> <li>• Respite</li> </ul>

## Section 2: Analysis of Settings for Characteristics of an Institution

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 completed an initial assessment of all settings against the first two characteristics of an institution in early 2015. At that time there were no settings where an HCBS participant lived or received services

that were located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment. Further, there were no settings on the grounds of or immediately adjacent to a public institution.

Idaho has initiated its assessment of all settings for the third characteristic on an institutional setting: the setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. That process is described in detail in Section 2a and Section 2b.

Any setting identified as potentially institutional will receive a site visit by Department staff who will examine each site for all the characteristics of an institution. If the state determines a setting is HCBS compliant and likely to overcome the presumption of being an institution, those sites will be moved forward to CMS for heightened scrutiny. Any site unable to overcome this assumption will move into the provider remediation process.

The reader should note that much of this section of the State Transition Plan has been revised as the state has modified its strategy for analysis of settings for characteristics of an institution. Versions 1- 3 of the State Transition Plan contain all previous verbiage and can be found at: [www.HCBS.dhw.idaho.gov](http://www.HCBS.dhw.idaho.gov).

## **2a. Analysis of Residential Settings for Characteristics of an Institution**

Idaho Medicaid supports two types of residential settings for adults that needed to be analyzed against the characteristics established by CMS as presumptively institutional. They are CFHs and RALFs.

### **Certified Family Homes (CFHs)**

In September of 2014 Department of Health and Welfare's health facility surveyors from the CFH program were asked to identify if any CFH was in a publicly or privately owned facility providing inpatient treatment, or on the grounds of or immediately adjacent to a public institution. Health Facility surveyors visit every CFH once a year so they have intimate knowledge of each physical location. No CFH was found to meet either of the first two characteristics of an institution.

In April 2016 that process was repeated with questions added related to isolation. Surveyors again reported that there are no CFHs that are in a publicly or privately owned facility providing inpatient treatment, or on the grounds of, or immediately adjacent to, a public institution. However, six CFHs were identified as potentially having the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

### **Residential Assisted Living Facilities (RALFs)**

In early summer of 2014 Department of Health and Welfare's 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 on the grounds of or immediately adjacent to a public institution. No RALFs were found to meet either of the first two characteristics of an institution.

In April 2016 that process was repeated with questions added related to isolation. It again found that no RALFs are in a publicly or privately owned facility providing inpatient treatment, or on the grounds of, or immediately adjacent to, a public institution. However, licensing and certification staff were unable to assess all RALFS for isolation. While the actual address and physical proximity of the sites to inpatient facilities or to a public institution had not changed, staff determined that they could only accurately assess each RALF for isolation if they had visited that RALF recently. As a result Idaho's assessment of RALFs for this third characteristic of an institution, that the setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS, is not yet complete. Idaho expects to utilize a different process for assessing RALFS for this third characteristic. It is now proposed that any RALF not recently visited by licensing and certification staff and assessed by them for isolation, will receive an on-site visit between January 2, 2017 and June 30, 2017. This visit will specifically assess each RALF to determine if the setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

## **2b. Analysis of Non-Residential Settings for Characteristics of an Institution**

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.

In 2015 Medicaid solicited the help of Department of Health and Welfare staff responsible for completing the licensing and certification of DDA settings to assess those settings for the first two characteristics of an institution. Those characteristics are that they are in a publicly or privately owned facility providing inpatient treatment or on the grounds of, or immediately adjacent to, a public institution. 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. In April 2016 that process was repeated with questions added related to isolation. No DDAs were found to have any of the three characteristics of an institution.

To assess adult day health centers against the first two characteristics of an institution, the Idaho Department of Health and Welfare staff responsible for the biannual provider quality reviews 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. In April 2016 that process was repeated with questions added related to isolation. No adult day health centers were found to have any of the three characteristics of an institution.

## 2c. Children's Residential Care Facilities

During Idaho's initial analysis of non-residential service settings the state identified 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. There were six children in the state living in residential care facilities and accessing home and community based services as of May, 2016. The state has notified these children's families and service providers that the child can no longer access services with HCBS funding while living in the residential care facilities because they are considered institutions. The medically necessary service needs of these children are being authorized via Early and Periodic Screening, Diagnostic, and Treatment funding. Additionally, the state has developed an internal process to ensure cross-program coordination is used to prevent HCBS funding from being used in the future for children moving into and residing in a residential care facility. The state ensures HCBS funding is not being used by any HCBS eligible children who are residing in a children's residential facility as of May 1, 2016.

## 2d. Heightened Scrutiny Process

Any setting with a negative or 'unknown' response to the questions assessing the characteristics of an institution will be subject to further evaluation. This evaluation will include:

- A site visit to each setting by Medicaid staff to assess firsthand the settings characteristics to determine if the setting does or does not meet the characteristics of an institution
- A review of documented procedures for how participants access the broader community
- Barriers which are present at the setting to prevent or deter people from entering or exiting. Idaho will recognize exceptions to barriers utilized for safety measures for a particular individual.
- In residential settings the processes that are utilized to support social interactions with friends and family in the setting and outside of the setting.

The review of settings with a negative or 'unknown' response to the questions assessing the characteristics of an institution will be completed by June 30, 2017. Idaho will identify those settings it believes can overcome the assumption of being institutional and will submit evidence to CMS demonstrating such. This evidence will include such things as:

- Any documented procedures for how individuals access the broader community
- Logs which may be used for exiting or entering the setting
- Case notes on individual's activities
- Calendar of activities sponsored outside of the setting
- Documented procedures for outside visitors and outside phone calls, etc.

Settings the state believes are institutional and cannot overcome this assumption will be moved into the provider remediation process.

## Section 3: Site-Specific Assessment and Site-Specific Remediation

### Overview

Idaho will use a multi-component approach to assess all HCBS settings for compliance with the HCBS setting requirements. A summary of those components follows:

- Medicaid will complete a one-time site-specific assessment for a randomly selected and statistically valid sample of HCBS service providers, stratified by provider type. During those site visits each site will be assessed on all setting requirements and evidence of compliance will be examined. This work will begin on January 2, 2017 and be completed by December 31, 2017.
- At the same time, beginning January 2, 2017, Medicaid will start its ongoing monitoring of all sites for HCBS compliance. This simultaneous implementation of ongoing monitoring and the site-specific assessments will ensure that settings not selected for a site visit will still be assessed for compliance with HCBS setting requirements. Details for ongoing monitoring can be found in the Section 3d below.

Both the site-specific assessments and the ongoing monitoring work can potentially lead to discovery of a non-compliance issue. Discovery of non-compliance issues will result in remediation activities; see Section 3b for details on provider remediation.

In preparation for initiation of the site-specific assessment and resulting remediation work, the state has completed regulatory changes in IDAPA to support the HCBS setting requirements. Rule changes are effective July 1, 2016, and providers are given six months before enforcement actions begin. Idaho will begin its formal assessment of settings in January 2017, which is expected to take one year.

Tasks designed to assist the state in preparing for the assessment are currently underway. 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 2, 2017. In addition, there have been numerous training opportunities for providers to date and the HCBS regulations have been shared.

The assessment plan described below in 3a covers provider owned or controlled residential and non-residential settings that are not the participants' own home. These are settings in which providers have the capacity to influence setting qualities. The provider types and number of current setting are:

- Adult Day Health Centers – 53 service sites
- Developmental Disability Agencies – 75 service sites
- Certified Family Homes – 2,212 service sites
- Residential Assisted Living Facilities – 352 service sites

By January 1, 2018, all HCBS settings in Idaho will have been assessed for compliance with the HCBS setting qualities. While not all setting sites will receive an on-site assessment, all settings are subject to the ongoing monitoring activities that will be established by January 1, 2017 (see section 3d.). Data

collected during ongoing monitoring activities will inform the state's determination of compliance vs. noncompliance of the settings not selected for an on-site assessment.

Section 3b describes the proposed plan for site-specific provider remediation. Section 3c describes Idaho's plan for relocating participants in non-compliant settings or with non-compliant service providers. Finally, Section 3d describes the ongoing monitoring plan and, includes all settings where Medicaid HCBS are delivered. While Idaho Medicaid presumes that services delivered in community settings or in a participant's private residence meet HCBS setting quality requirements, an ongoing monitoring system will ensure that Medicaid providers do not arbitrarily impose restrictions on setting qualities while delivering those services. Monitoring will be used to hold all providers of HCBS accountable for setting quality compliance and to ensure participant rights are honored.

### **Idaho Standards for Integration in All Settings**

Idaho has worked extensively with providers, advocates, licensing and certification 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 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.

### **3a. Site-Specific Assessment**

Idaho last submitted an updated Statewide Transition Plan to CMS on October 23, 2015. That plan included the assessment plan for Idaho HCBS services. The approach at that time employed a risk stratification methodology whereby all settings would initially be screened to assess compliance and to identify those settings most likely to have difficulty meeting the setting requirements.

Based on guidance provided by CMS through informational webinars and subsequent phone meetings, Idaho does not believe the approach published in October 2015 will meet the CMS standards for site assessments. As a result the information originally contained in this section has been deleted and replaced with an updated plan for assessing HCBS sites in Idaho for compliance. The deleted information is included on the HCSB webpage, [www.HCBS.dhw.idaho.gov](http://www.HCBS.dhw.idaho.gov), in version 3 of the STP. Below is the new assessment process Medicaid intends to implement.

The proposed strategy and timeline for assessment includes the following activities:

**Baseline Assessment of Settings: April 2016 – June 2016**

- Idaho will complete a baseline assessment of HCBS settings between April and June of 2016.
- A data analyst from Medicaid will select a random sample of sites to take part in the baseline assessments. The sample size will include more sites than required to have a statistically significant sample, as participation will be voluntary.
- Staff will contact providers on the list to ask them if they would be willing to participate in the baseline assessment. If the provider agrees, a time will be scheduled to complete the assessment over the phone.
- Providers will be asked to identify over the phone what evidence they will provide to support their responses should they be selected for the official site-assessments scheduled to begin in January of 2017.
- All assessment results will be tracked and a summary report of compliance vs. non-compliance will be generated once the baseline work is completed.
- The information obtained from the baseline work will be used to;
  - determine current levels of HCBS compliance in the provider community,
  - inform the development of upcoming provider trainings,
  - identify best practices for compliance,
  - identify the types of evidence providers can maintain to validate compliance,
  - modify the provider self-assessment tool and the on-site assessment tool if necessary,
  - potentially identify additional materials needed for the provider toolkit,
  - provide targeted technical assistance to those providers who have participated, and
  - inform current plans for the site-assessments scheduled to begin in 2017.

**Provider Self-Assessment: August 1, 2016 – December 31, 2016**

- All HCBS providers will be given a provider self-assessment tool by August 1, 2016 and will be required to complete the self-assessment no later than December 31, 2016. This requirement is now supported in Idaho rule.
- Training will be offered to providers on how to complete the self-assessment and what best practices might look like.

- Providers will be informed they may be selected for on-site assessment beginning in 2017. At that time, providers would be expected to produce both a completed self-assessment and evidence to support each response. They will also be informed that they may be asked at any time in 2017 to submit their completed self-assessment and the evidence to support their responses to Medicaid for review should any concerns about their compliance arise during 2017. Concerns may be triggered either via a complaint or as a result of on-going quality assurance activities described below in Section 3d.
- All providers will be required to maintain a copy of the completed provider self-assessment specific to that location on site for all of 2017 along with the evidence to support each response.

**Assessment of Compliance through Site-Specific Visits: January 1, 2017 – December 31, 2017**

Beginning in January of 2017, Medicaid staff will visit a stratified random statistically valid sample of HCBS settings to complete an on-site assessment for HCBS compliance. Settings to receive a site assessment will be selected using the following process:

- The population for each provider type will be stratified among the three geodensity areas of Frontier, Rural, and Urban counties (Frontier < 7 person per sq. miles, Rural >= 7 person per sq. miles and does not have a population center of 20,000 or greater, Urban are those counties that have a least one population center of 20,000 or greater).
- The sample size of each strata will be based on the population size of each provider type and geodensity category selected with a 95% confidence level and a  $\pm 10\%$  confidence Interval/ margin of error.
- A data analyst from Medicaid will use the probability sampling type of stratified random sample for the population of providers. Random numbers will be generated and assigned by the auto-process of MS Excel's "Random Number Generator" tool from the "Data Analysis" feature.
- The sample for each strata will be selected by the ascending sort order of the random numbers. The providers not selected in each strata will be placed on a replacement list and will be selected as needed based on the ascending sort order of the random numbers.

The HCBS Coordinator will be responsible for overseeing the site-specific assessment process and for tracking the outcomes. Site-specific assessments will begin January 2, 2017 and will run through December 31, 2017. A site-specific assessment tool has been developed for use during the site visits/assessments.

The team who will be completing the site-specific assessment has been identified. They will receive training on use of the site-specific assessment tool later this year. In addition to formal training, the assessment team members will be asked to participate in the baseline assessment work described above. This will allow them an opportunity to try the site-specific assessment tool in advance of the official assessment.

The site-specific assessments will be completed in person by state staff who will visit the identified sites specifically to assess HCBS compliance. Providers will be contacted in advance of the site-assessment visit and asked to have available their completed self-assessment and the evidence they have to support each response in that self-assessment. Once on site, the assessment team will utilize the site-specific assessment tool to assess compliance. The tool aligns directly with the provider self-assessment.

During the visit the assessor will document the provider’s responses and the evidence the provider is offering to support the responses. The assessor will complete observations and/or follow-up questioning with providers or participants as needed to determine the status of the provider’s compliance with all the HCBS requirements. The assessor will document the decision of compliance or non-compliance for each regulation and will note the rationale for the determination of compliance or non-compliance.

Within fifteen calendar days of each site-specific assessment, providers will be given the results of the assessment. If an issue of non-compliance has been identified the provider will also receive a request for a corrective action plan and be moved into the remediation process described in 3b below. All requests for a corrective action plan will include an offer for technical assistance on how to come into full compliance.

An HCBS Oversight Committee will be established in January, 2017. Members are expected to consist of staff, providers, advocates and participants or family members. The Committee will serve in an advisory capacity to support the HCBS Coordinator during the assessment process and ensure Idaho is fully compliant by March of 2019.

Beginning January 1, 2017, the HCBS Coordinator will report the status of the on-site assessments to the Oversight Committee and to CMS on a quarterly basis.

Following the completion of all provider site-assessments in December of 2017, a comprehensive report will be made and included in the state transition plan that addresses the results of all provider site-assessments. The following table outlines the number of site-assessments that are expected to be completed on a quarterly basis.

### Assessment Milestone and Timeline Summary

Site Assessment Sample by Quarter		
Setting Type	Sample Size	Number of Sites to be Assessed in 2017
Certified Family Home	95 providers	First quarter: 24 sites Second quarter: 24 sites Third quarter: 23 sites Fourth quarter: 23 sites
Residential Assisted Living Facilities	76 providers	First quarter: 19 sites Second quarter: 19 sites Third quarter: 19 sites Fourth quarter: 19 sites

Developmental Disability Agencies	55 providers	First quarter: 14 sites Second quarter: 14 sites Third quarter: 14 sites Fourth quarter: 13 sites
Adult Day Health Centers	8 providers	First quarter: 2 sites Second quarter: 2 sites Third quarter: 2 sites Fourth quarter: 2 sites

### 3b. Site Specific Remediation

To ensure provider compliance with HCBS rules, the state has provided extensive provider trainings that began in 2014 and will continue through the end of 2016. The state is developing a toolkit that providers can utilize to comply with the HCBS rules. Below is a description of Idaho’s proposed provider remediation process that will be used to track and report on progress towards full compliance.

Any HCBS provider, residential or non-residential, found to be out of compliance with the HCBS setting requirements via the initial assessment or via ongoing monitoring activities will undergo the following proposed provider remediation process.

- If an HCBS rule violation is identified, the provider will receive a request for a Corrective Action Plan (CAP).
- CAPs will also be issued for any non-compliance issue identified during the monitoring of settings or complaints the department might receive.
- The provider will be given 45 days to implement the CAP. QA/QI staff will offer technical assistance to the provider to become fully compliant with HCBS rules throughout the CAP process. The provider will be required to submit documentation validating compliance to the QA/QI staff within 90 days of an approved CAP before the process can be determined complete.

The state has developed 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 to ensure provider compliance with HCBS rule. This process will allow providers ample opportunity for compliance and allow the state time to support participants who choose to consider alternative, compliant providers.

The HCBS Coordinator will be responsible for coordinating all remediation activities related to Home and Community Based Settings. The HCBS Coordinator, along with the QA/QI staff, is responsible for providing technical assistance to providers during the CAP process and enforcement actions as needed.

Section 4: Major Milestones for Outstanding Work includes a table with the tasks and timeline for activities to specifically address remediation.

### 3c. Participant Relocation

Idaho Medicaid initially published a high-level plan on how the state will assist participants with the transition to compliant settings. The state has now developed a more detailed relocation plan. This plan describes how the state will deliver adequate advanced notice, which entities will be involved, how

participants 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.

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 prior to April 2018 based on the corrective action plan timeline. 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. This will trigger the relocation process outlined below:

- If it is determined a setting does not meet HCBS setting requirements, the plan developer (the person responsible for the participant's person centered service plan) will notify the affected participants and their legal guardian(s), if applicable. The formal notification letter will indicate that their current service setting does not meet HCBS requirements and will advise participants to decide which of the following they prefer:
  - To continue receiving services from that provider without HCBS funding.
  - To continue receiving Medicaid HCBS funding for the services and change providers.

The participant will be asked to respond within 30 days from the date of the letter.

- The letter will further indicate that, if the participant wishes to continue receiving Medicaid HCBS funding for the service, he or she must select a new provider who is compliant with Medicaid HCBS rules. It will direct participants to the appropriate entity for assistance. Participants will then be given information on alternative HCBS compliant settings along with the supports and services necessary to assist them with this relocation.
- Once the participant has made his or her decision they will have 30 days to transfer to a new provider. An extension for up to six months may be offered if necessary to find alternative HCBS compliant care or housing. Extensions will be offered on a case-by-case basis in order to meet the participant's needs.
- The plan developer will revise the plan of service and follow the process of the specific program for authorizations. An updated person-centered plan will reflect the participant's choice of setting and services.
- The Department will send the current service provider a formal notification letter indicating that their Medicaid provider agreement will be terminated, and that participants served have been notified that the provider is not HCBS compliant. This notification will occur no less than 30 days prior to relocation or discontinuation of Medicaid funding for the service. The specific reasons will be included in the agency's formal notification. The current provider may be requested to participate in activities related to the relocation of the participant based on requirements identified in the specific program rules and the Medicaid Provider Agreement.
- Upon relocation to a new HCBS provider, any modifications or changes necessary for the person's health, safety, or welfare will be addressed in the new or revised person-centered plan of service.

- Medicaid will submit quarterly updates to CMS beginning in January, 2017 indicating the number of participants impacted by a non-compliant HCBS setting or provider and provide the general status of participant relocation activities.

### Timeline for Relocation of Participants

<b>Trigger:</b> The corrective action plan process produces unsatisfactory results (a provider either refuses to comply or cannot make the necessary changes), thus a decision is made to no longer allow that provider to serve HCBS participants. This can occur as early as January 2017.	
Step	Timeline
1. Medicaid sends a formal letter to the participant asking the participant to respond within 30 days. The participant is offered assistance by the appropriate entity.	1. This step can occur as early as January 2017.
2. Medicaid sends the provider a formal notification letter indicating that their Medicaid provider agreement will be terminated and that participants served have been notified that the provider is not HCBS compliant.	2. This step can occur as early as January 2017.
3. Once the participant has made their decision they will have 30 days to transfer providers unless the Department extends the relocation process for up to six months.	3. This step can occur as early as 30 days after step one is initiated.

### 3d. Ongoing Monitoring

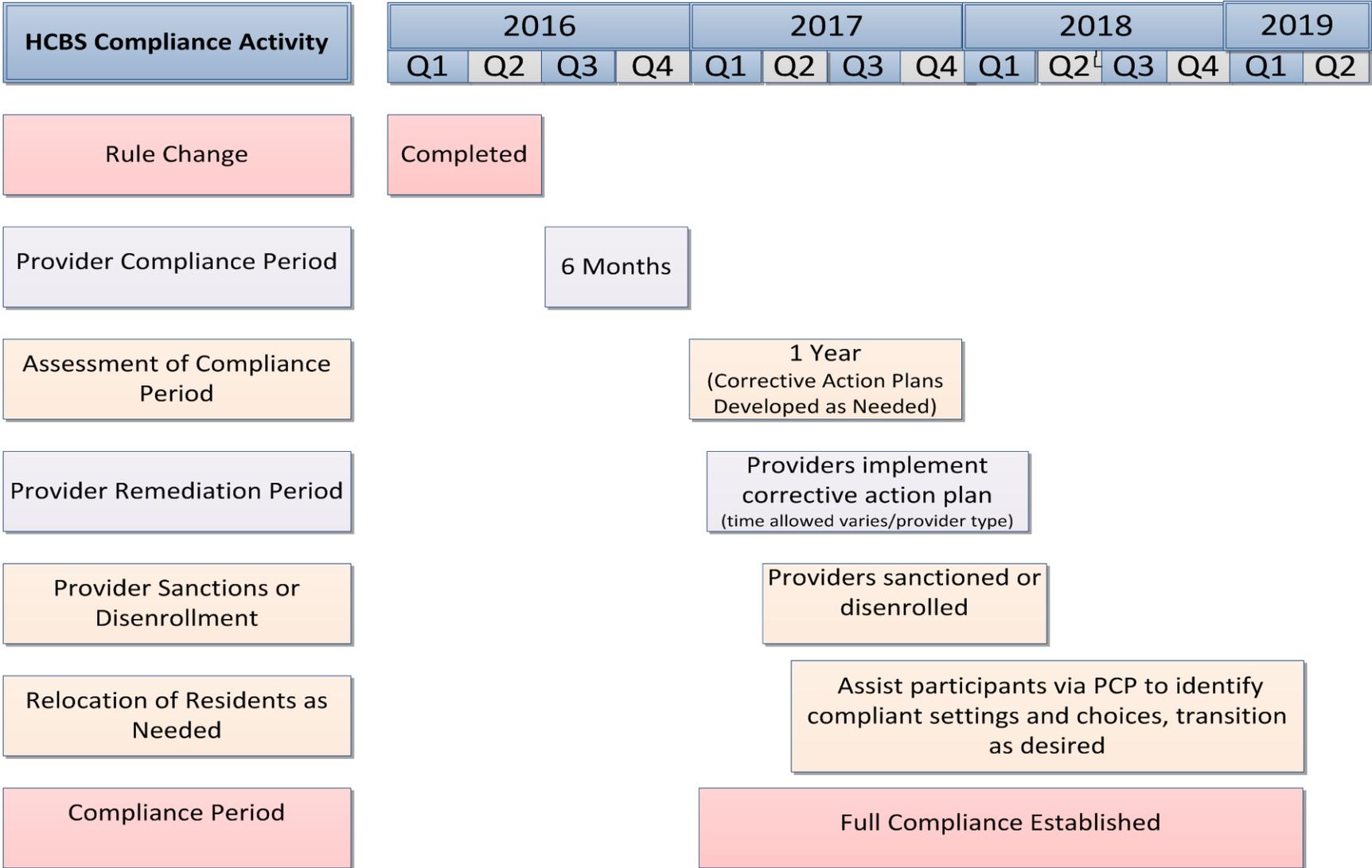
Ongoing quality assurance activities will begin January 1, 2017. Those activities include:

- Existing participant feedback mechanisms will be modified to include targeted questions about HCBS compliance in the participant’s service setting. There are four tools used at Medicaid: the Children’s Service Outcome Review (CSOR) which is used to assess services provided to Children’s DD waiver and Act Early waiver participants, the Adult Service Outcome Review (ASOR) and Participant Experience Survey (PES) which is used to assess services provided to Adult DD waiver participants, and the Nurse Reviewer Home Visit form, which is used to assess services provided to A&D waiver and State Plan Personal Care Services participants.
- Existing Provider Quality Review processes will be modified to include components specific to HCBS compliance.
- Existing complaint and critical incident tracking and resolution processes will be modified to include an HCBS setting quality category.
- Licensing and Certification staff will be assessing compliance with some of the HCBS requirements when completing their routine surveys of Certified Family Homes, Developmental Disability Agencies and Residential Assisted Living Facilities. They will continue to cite on requirements that are included in their rules, and will notify the respective Bureau’s Quality Assurance Specialist if issues with other HCBS requirements are identified. The Bureau’s Quality Assurance Specialist will investigate and document the compliance issue in the same manner as a complaint.

Ongoing issues or trends will be reported to the Oversight Committee through March, 2019. Once Idaho has reached full compliance, issues or trends related to HCBS compliance will become part of existing quality monitoring management mechanisms. At that time the role of the Oversight Committee will be reassessed.

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



## Section 4: Major Milestones for Outstanding Work

In the initial versions of the Idaho State Transition Plan Idaho included tasks for reaching compliance along with a task description and timeline. In version 4 of the STP those tasks have been moved to Attachment 5, Task Details. **Only major milestones** remain in the body of the STP. The tasks will continue to be updated in the attachment, but readers can find the major milestones for outstanding work and the associated timelines here. Quarterly updates on the status of incomplete work will be provided to CMS based on these milestones:

**Systemic Assessment:** The systemic assessment has already been completed. Results are included in Section 1 of this STP and thus there are no tasks remaining to reach this milestone.

**Milestone: Systemic Assessment complete 3/31/16**

<b>Systemic Remediation</b>				
<b>Tasks</b>	<b>Deliverables</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status</b>
<u>Idaho Administrative Code (IDAPA) Promulgated:</u> Rule changes proposed to Idaho Code to support new federal HCBS regulations	Link to IDAPA once approved by the legislature	1/27/15	Passage 4/30/16 effective 7/1/16	Complete, rules effective 7/1/16
Renewal of Children’s 1915(i) to incorporate new federal HCBS regulations	State plan amendment documents to be submitted to CMS	3/31/16	6/30/16	Complete
<u>SPA for 1915(i)</u> Amend Children’s 1915(i) to incorporate new federal HCBS regulations	State plan amendment documents to be submitted to CMS	7/01/16	9/30/16	Complete
<u>SPA for 1915(i)</u> Amend Adult 1915(i) to incorporate new federal HCBS regulations	State plan amendment documents to be submitted to CMS	7/01/16	9/30/16	In process
<u>Waiver Amendments Adult DD</u> Amendment to the Adult DD Waiver to support new HCBS regulations	Waiver documents to be submitted to CMS	5/31/16	6/30/16	Complete
<u>Waiver Amendments A&amp;D</u> Amendment to the A&D Waiver to support new HCBS regulations	Waiver documents to be submitted to CMS	5/31/16	6/30/16	Complete
<u>Waiver Amendments Children’s DD</u>	Waiver	5/31/16	6/30/16	Complete

Amendment to the Children's DD Waiver to support new HCBS regulations	documents to be submitted to CMS			
<u>Waiver Amendments Act Early</u> Amendment to the Act Early Waiver to support new HCBS regulations	Waiver documents to be submitted to CMS	5/31/16	6/30/16	Complete
<u>Idaho Administrative Code (IDAPA) Promulgated:</u> Rule changes proposed to Idaho Code to support new federal HCBS regulations as it relates to landlord tenant requirements*	Link to IDAPA once approved by the legislature	7/5/16	Passage 4/30/17 effective 7/1/17	In process
<b>Milestone: Systemic Remediation complete 7/1/17</b>				

\* An interim solution is currently in process to update the occupancy agreement requirements for all Certified Family Homes to align with Idaho landlord tenant laws. Rule support will follow July 1, 2017.

<b>Analysis of Settings for Characteristics of an Institution</b>				
<b>Tasks</b>	<b>Evidence</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status</b>
Develop a survey for staff to use to examine if a setting has any of the characteristics of an institution, including isolation	Survey	4/1/16	4/29/16	Complete
Staff who regularly visit HBCS sites complete the survey based on their knowledge of each physical location	Completed surveys	5/2/16	5/20/16	Complete for all settings except RALFS
Analyze the survey results. Identification of settings that have characteristics of an institution, including isolation.	Survey results	5/23/16	6/3/16	Complete for all settings except RALFS
Hire and train staff to complete on-site assessments of RALFS to determine if they have the characteristics of an institution.	No deliverable	10/3/16	12/30/16	Not started
Complete site visits and assessments of any RALF not previously assessed by licensing and certification staff to determine if any RALF has a characteristic of an institution.	Information can be included in quarterly reports to CMS upon request	1/2/17	6/30/17	Not started

Complete site specific visits and assessments for the CFHs identified as potentially isolating.	Information can be included in quarterly reports to CMS upon request	1/2/17	6/30/17	Not started
Gather and review the evidence providers offer to overcome the assumption of being institutional and determine which sites Idaho will move forward to CMS for heightened scrutiny and which will move into the provider remediation process.	Full listing of assessment outcomes will be published in V5 of the STP, 4/30/18 to 5/31/18	1/2/17	9/15/17	Not started
Submit requests for heightened scrutiny to CMS for settings believed by Medicaid to be HCBS compliant.	Requests submitted to CMS	7/1/17	12/29/17	Not started
For all sites determined to be institutional, move forward with removing that provider's agreement and utilization of the participant relocation plan.	Quarterly updates to CMS	1/2/17	Ongoing	Not started
<b>Milestone: Analysis of Settings for Characteristics of an Institution complete 12/29/17</b>				

<b>Site-Specific Assessment</b>				
<b>Tasks</b>	<b>Evidence</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status</b>
Time for providers to come into compliance after Idaho Code to support HCBS compliance go into effect July 1, 2017	No deliverable	7/1/16	12/31/16	In process
On-site assessment of a statically valid sample of all setting types for compliance with the HCBS setting requirements	Quarterly updates to CMS: see the <b>Assessment Timeline and Milestone Summary</b> in Section 3a. Additionally the site-specific assessment results will be published in v5 of the STP, 4/30/18 to 5/31/18	1/4/2017	12/31/17	Not started
<b>Milestone: Site-specific assessment complete 12/31/2017</b>				
<b>Site-Specific Remediation and Participant Relocation</b>				
<b>Tasks</b>	<b>Evidence</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status</b>
<b>1. Planning</b>				
• Site-specific plan for provider	Provider Remediation Plan	6/3/2016	7/4/2016	In process

remediation finalized	published for public comment			
<ul style="list-style-type: none"> <li>Plan for participant relocation finalized</li> </ul>	Participant Relocation Plan published for public comment	6/3/2016	7/4/2016	In process
<b>2. Provider and Participant Trainings</b>				
<p>Stakeholder WebEx Series:</p> <ul style="list-style-type: none"> <li>HCBS Implementation - Overview of HCBS requirements with a focus on related IDAPA rules for all stakeholders (four presentations)</li> </ul>	WebEx presentations as well as documentation of phone conferences	4/4/16	5/16/16	Complete
<ul style="list-style-type: none"> <li>Training on use of the provider toolkit for residential and non-residential providers (two presentations)</li> </ul>	WebEx presentation	7/26/16	8/2/16	Not started
<ul style="list-style-type: none"> <li>Training on how to complete the Provider Self-Assessment (two presentations)</li> </ul>	WebEx presentation	8/9/16	8/23/16	Not started
<ul style="list-style-type: none"> <li>Final Questions (two presentations)</li> </ul>	Documentation of phone conference	9/8/16	10/4/16	Not started
<p><b>3. Training Internal Staff to Prepare for Assessment</b></p> <p>Staff doing on site assessments in 2017 from BDDS, BLTC and FACS: Understanding the assessment process, timeline, and the provider remediation process- Review detailed business processes for assessment, tracking, and reporting.</p>	Training outline and/or meeting materials	5/11/16	11/30/16	In process
<p><b>4. Corrective Action Plan Process</b></p> <p>utilized to address issues of non-compliance</p>	All non-compliant setting providers who were unable to comply or who chose to not comply will be identified in v5 of the STP 4/30/18 to 5/31/18	1/2/2017	12/31/17	Not started
<p><b>5.</b> Participant relocation activities to support transitioning of participants to compliant HCBS settings. The participant relocation plan described in Section 3c will be utilized in this process.</p>	Quarterly reports to CMS on participant relocation activities beginning 1, 2017. Documentation of the number of participants impacted by the need to relocate due to issues of HCBS non-compliance.	1/2/2017	3/19/2019	Not started
<b>Milestone: Site-Specific Remediation and Participant Relocation Complete 3/19/2019</b>				

<b>Statewide Transition Plan</b>				
<b>Tasks</b>	<b>Evidence</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status</b>
Submission of STP to CMS: includes publication for public comment, comment analysis and STP changes as a result of comments	STP v4 to be published from 6/4/16 to 7/4/16 Submitted to CMS 7/29/16	6/4/16	7/29/16	In process
Submission of STP to CMS: will include assessment results. STP will be published for public comment, public comment analysis and STP changes as a result of comments will be completed.	STP v5 to be published from 4/30/18 to 5/31/18 and to be submitted to CMS – 7/1/18	4/30/18	5/31/18	Not started
<b>Milestone: State Transition Plan Submitted to CMS for Final Approval 7/1/2018</b>				

<b>Other</b>				
<b>Tasks</b>	<b>Evidence</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status</b>
Toolkit development	Toolkit	3/7/16	7/15/16	Complete
<u>HCBS Oversight Committee established and operational</u> This Committee will meet quarterly and oversee all assessment and on-going monitoring activities	Oversight Committee charter and membership list	1/31/17	3/15/2019	Not started
<b>Milestone: Toolkit Complete and Oversight Committee Operational 1/29/2017</b>				

## Section 5: Public Input Process

### 5a. 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 and planning.

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 Medicaid Newsletter, a newsletter sent to all Medicaid providers.
4. In order for the state to collaborate with participants on the new HCBS requirements, it offered information to several advocacy groups including the Idaho Self-Advocate Leadership Network and the Idaho Council on Developmental Disabilities. The state also requested that service coordinators and children's case managers distribute information to participants about how to access the HCBS webpage and to advise them that the draft Transition Plan 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 meetings 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.
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 is 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 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](http://www.HCBS.dhw.idaho.gov)) on October 3, 2014, through November 2, 2014, again on January 23, 2015, through February 22, 2015, again on September 9, 2015, through October 12, 2015, and finally on June 3, 2016 through July 4, 2016. Comment options included 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 formal 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 formal 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 formal 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	iii. The Idaho State Journal
ii. The Idaho Statesman	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](http://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](mailto: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, (v3) was submitted on October 23, 2015 and (v4) was submitted to CMS on July 29, 2016. 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*. It contains detailed support for the second comment period and posting of the Transition Plan, January 23, 2015 through February 22, 2015. Details to support the third and fourth comment period noticing process have been posted on the Idaho HCBS webpage found at [www.HCBS.dhw.idaho.gov](http://www.HCBS.dhw.idaho.gov) and are available upon request. The document size for the photos etc. is quite large and if attached to this version of the Transition Plan would potentially prohibit further distribution of the plan.

## **5b. 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*.

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

- Need for additional training of participants, guardians, providers and support staff
- Participant rights
- Oversight
- Person centered planning
- Provider payment

To see all comments from the third comment period please refer to *Attachment 4: Public Comments to Idaho HCBS Settings Transition Plan Posted in September 2015*. No comments were received during the fourth comment period, June 3, 2016 through July 4, 2016.

## **5c. 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 assessed 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**

No changes have been made to the Transition Plan based on these comments. A detailed training plan is under development and recommendations received related to training and person centered planning will be taken into consideration as described in the state’s responses. Idaho Medicaid’s responses to each comment are contained in *Attachment 4: Public Comments to Idaho HCBS Settings Transition Plan Posted on September 11, 2015*.

### **Fourth Comment Period**

There were no comments received during the fourth comment period and thus no changes were made to the Transition Plan based on comments.

## **5d. 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**

A complete summary of where the state's determination differs from public comment can be found in *Attachment 4: Public Comments to the Idaho HCBS Settings Transition Plan Posted September 11, 2015.*

### **Fourth Comment Period**

There were no comments received during the fourth comment period and thus no areas where the state's determination differs from public comment.

## 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

NOTE: There were no public comments made to the Idaho HCBS Settings Transition Plan posted in June, 2016

**Attachment 5:** Task Details

**Attachment 6:** Response to CMS Request for Additional Information

**Attachment 7:** Index of Changes

**Attachment 1: Proof of Public Noticing**

# Proof of Public Noticing

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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](http://www.HCBS.dhw.idaho.gov)


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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](mailto: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 webpage is updated, please click on the 'Monitor this Page' button below and sign up for updates.

[MONITOR THIS PAGE](#)

[Accessibility](#) [Privacy & Security](#) [Non-Discrimination](#)

[About Us](#) [Contact Us](#)

## **#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](mailto:HCBSSettings@dhw.idaho.gov)

**Written - letter:** Comments may be sent to the following address:

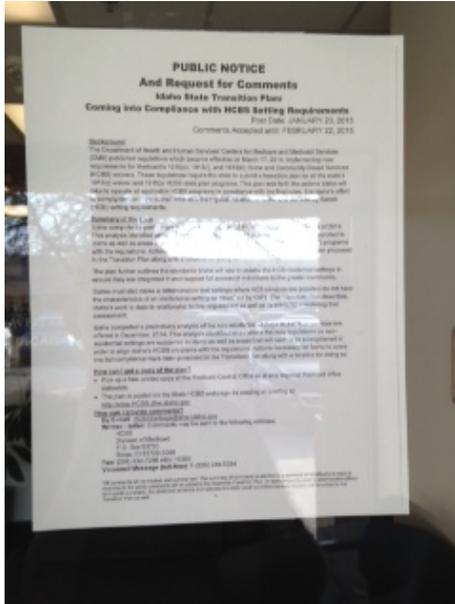
HCBS  
Division of Medicaid  
P.O. Box 83720  
Boise, ID 83720-0009

**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.

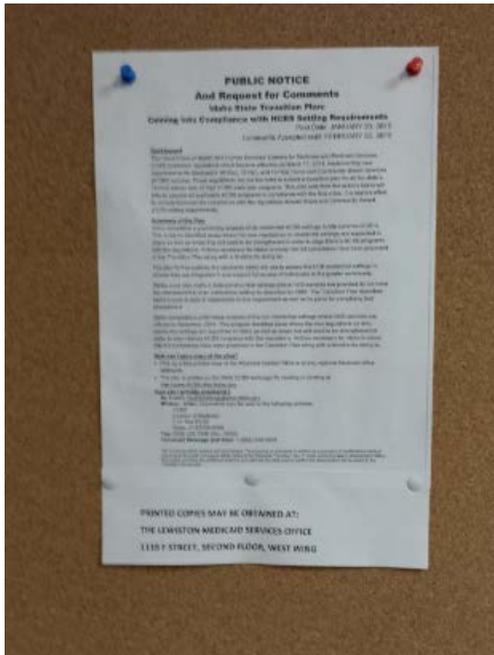
## CENTRAL OFFICE – Boise, Idaho



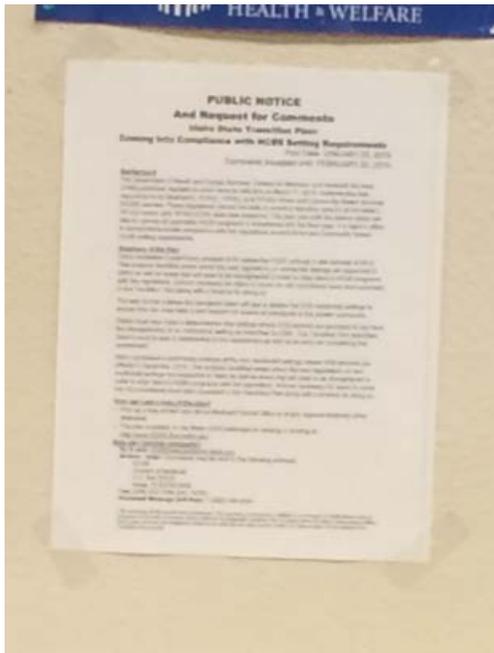
**REGION #1 – Coeur d’Alene, Idaho**



## REGION #2 – Lewiston, Idaho



## REGION #3 – Caldwell, Idaho



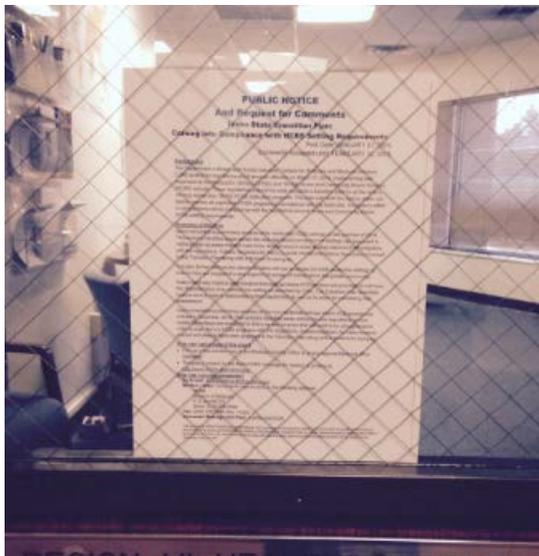
REGION #4 – Boise, Idaho



REGION #5 – Twin Falls, Idaho



REGION #6 – Pocatello, Idaho





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](http://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](mailto: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.



PROOF OF PUBLICATION

STATE OF IDAHO  
County of Bannock

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

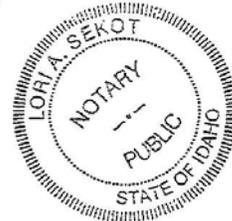
That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice of advertisement and is a newspaper within the meaning of the laws of Idaho.

*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



**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](http://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](mailto: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  
Voice/Message: Toll free at (855) 249-5024

January 11, 2015  
LN22151

**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: *Jeresa Marten*

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

**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)(9), 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.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](mailto: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

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*  
 (Legal 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



THE POST REGISTER

**Proof of Publication  
The Post Register**

State of Idaho  
Bonneville County:

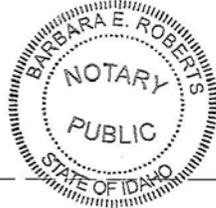
I, ~~Hilary Witt~~ or Staci Dockery, first being duly sworn, depose and say: That I am the ~~Classifieds Manager~~ or Legal Notice Representative of the Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published 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 uninterruptedly, 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

My Commission expires: 5/9/2019

----- attached jurat -----

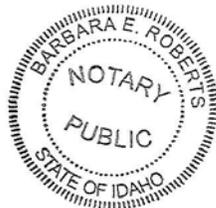
STATE OF IDAHO

ss.

COUNTY OF BONNEVILLE

Subscribed and sworn to before me, this 12 day of January 2015, before me, the undersigned, a Notary public for said state, personally appeared ~~Hilary Witt~~ or Staci Dockery, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day and year in this certificate first above written.



*Barbara E. Roberts*  
Notary Public for The Post Company  
Residing at: Idaho Falls  
My Commission expires: 5/9/2019

**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](http://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:

**Email:** [HCBSSettings@dhw.idaho.gov](mailto: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

**Voice/Text 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](http://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](http://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.



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 <a href="http://www.idmedicaid.com">www.idmedicaid.com</a> . <ul style="list-style-type: none"><li>• Clarkston – May 5, 2015</li><li>• Coeur d'Alene – May 6, 2015</li><li>• Idaho Falls – May 12, 2015</li><li>• Pocatello – May 13, 2015</li><li>• Twin Falls – May 14, 2015</li><li>• Boise – May 21, 2015</li></ul>
February Medicaid Newsletter Now Online	The February edition of the Medicaid Newsletter is now available online. Please click <a href="#">here</a> for the latest news and information affecting Idaho Medicaid providers. If you must receive the Medicaid 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 <b>IDAPA 16.03.582 defines the following:</b> <ul style="list-style-type: none"><li>• <b>Periodic Medical Screens.</b> 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.</li><li>• <b>Physical exams for any other purpose are not considered medically necessary.</b> Providers should review changes in both handbooks and note V70.3 is not an allowable diagnosis code when billing wellness exams.</li></ul>
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: <ul style="list-style-type: none"><li>• Allopathic and Osteopathic Physicians</li><li>• General Billing Instructions</li></ul>

- 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 <a href="http://www.HCBS.dhw.idaho.gov">www.HCBS.dhw.idaho.gov</a> . 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. <b>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.</b>
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)	<p>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.</p> <p>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.</p> <p>For details and proper billing, refer to the Provider Handbook – Hospital (<a href="https://www.idmedicaid.com/Provider%20Guidelines/Hospital.pdf">https://www.idmedicaid.com/Provider%20Guidelines/Hospital.pdf</a>) Section 4.4 – 4.4.2.</p> <p><b><u>Any claim that is not properly billed will be denied.</u></b></p>

## #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.



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

## IDAHO DEPARTMENT OF HEALTH & WELFARE

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](http://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](mailto: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 14<sup>th</sup>. 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@cofidaho.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.

### **Home and Community Based Settings (HCBS): Final Rule**

1

**OVERVIEW OF NON-RESIDENTIAL SERVICE SETTING REQUIREMENTS AND INITIAL GAPS IN COMPLIANCE**

**HCBS FINAL RULE  
JANUARY 14, 2015**

NOTE: THIS MEETING WILL BE TAPE RECORDED AND THE RECORDING WILL BE POSTED TO THE HCBS WEBPAGE

### **CMS HCBS Final Rule Name**

2

Published in the Federal Register on January 16, 2014, effective March 17, 2014

**Title:**

Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice (Section 1915(k) of the Act) and Home and Community-Based Services (HCBS) Waivers (Section 1915(c) of the Act); **Final Rule**

## 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](http://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](http://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 January 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](mailto: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

# Public Comments To

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The Idaho HCBS Settings Transition Plan Posted in October 2014

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## 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 upheld 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

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

# Public Comments To

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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](http://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](http://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](http://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 is 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 waived 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 waived 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 waived 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 waived 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 want 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](http://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.

# Public Comments To

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The Idaho HCBS Settings Transition Plan Posted  
on September 11, 2015

10/22/2015

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## Introduction

The Idaho State Transition Plan (STP) was posted for public comment for a third time on September 11, 2015. It was posted on the Idaho Home and Community Based Services (HCBS) webpage and was available in all regional Medicaid offices statewide, and in the Medicaid Central Office. Public comments were accepted from September 11, 2015, through October 13, 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.

New information in the STP included the details of the assessment and monitoring approach for non-residential settings along with changes made to specifically address comments received from CMS in August, 2015. An index of changes was added.

All comments to V3 of the Idaho State Transition Plan are included below. They 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

Two individuals submitted comments during the third formal comment period. One individual represents a statewide agency that advocates for participants.

## Comments Submitted and Responses

### Need for Additional Training

Comments in this section center on the commenter's desire for additional training of providers, support staff, participants, guardians, participants' families, as well as improvements in the format used to provide such training.

**Comment:** It is unclear from reviewing the transition plan what statewide training will be provided to individuals, families, and service providers to understand the changes to the rules and their impact on services. It is a significant change in expectations of service provision. ICDD strongly recommends providing quality face-to-face training as a top priority to service providers, adults with developmental disabilities, and families as a long-term investment in quality assurance for the service system.

**Response:** Idaho Medicaid is in the process of developing a detailed training plan and has proposed the following trainings for individuals, families, and providers to occur prior to implementation of HCBS requirements:

- An overview of HCBS regulations with a focus on IDAPA rules in early spring 2016
- A training on the provider toolkit for residential and non-residential providers in early spring 2016
- A training on how to complete a provider self-assessment in early summer 2016
- A training for targeted service coordinators to occur in fall of 2016 which will provide an overview of:
  - setting requirements
  - the person centered planning process
  - expectations for participant preparation and engagement and
  - documentation requirements
- Training for participants and guardians on their rights under the new regulations, to be offered as a face to face meeting in all regional offices in late 2016 or January of 2017.

**Comment:** With regard to Provider Owned or Controlled Residential settings Gap Analysis (Page 7): In addition to enhancing existing monitoring and quality assurance activities to ensure ongoing compliance, ICDD strongly recommends providing training to support staff to facilitate the understanding of supporting individuals to experience learned consequences by having personal control over their resources. The current culture may need assistance in understanding how to implement strategies to transition from controlling resources of individuals in order to protect people from potential mistakes to a planned approach for learning how to responsibly spend money.

**Response:** Idaho Medicaid will be providing additional training to providers prior to implementation. All providers including owners, administrators, support staff, and agency delegates are invited to attend. However Medicaid cannot mandate attendance. Part of the training will include review of the provider toolkit and how to use it effectively. That toolkit will contain examples of best practices for all of the requirements. Idaho Medicaid would welcome assistance from advocate groups in developing the best toolkit possible. Advocates have valuable experience and skills that could contribute significantly the training effort.

**Comment:** It is the observation of the ICDD that individual knowledge of participant rights is sadly lacking. It would be of tremendous benefit to adults with developmental disabilities to receive peer training and support to learn participant rights, why they are important, and who to call when participant rights have been violated.

The ICDD supports that each participant be provided a document titled, "These are Your Rights," along with information about how to file a complaint if requirements are not met. ICDD encourages the Department to consider peer mentor training to ensure participants are given every opportunity to learn about their rights using plain language, alternative formats, role plays, and other successful training strategies the Council has used to effectively educate adults about self-advocacy.

The ICDD and the Center on Disabilities and Human Development has completed preliminary interviews with adults with developmental disabilities as part of a statewide study to learn from individuals about their current level of choice, control, and meaningful participation in the planning of their lives. Initial interviews indicate a lack of awareness of their individual rights, ability for individual autonomy, initiative, and independence in making life choices. ICDD recommends peer training to model the qualities of individual autonomy, initiative, and independence for adults to live participant driven lives. Modeling what quality support looks like for adults is also an important training component.

**Response:** Idaho Medicaid agrees that participants need to know and understand their rights within Home and Community Based Service settings. For that reason each participant will be provided a document titled, "These are Your Rights," along with information about how to file a complaint if requirements are not met. Idaho Medicaid has also proposed training that would provide participants with education on their rights and resources available to support them in ensuring those rights are respected. Further, proposed training will also be available to the HCBS providers that will be working with participants. Idaho Medicaid agrees that peer training and support would be a valuable resource to Medicaid participants; however, this option is not feasible at this time with current resources. Should the advocate community be interested in initiating a peer to peer training program, the state would support that effort as much as possible.

**Comment:** With regard to the Analysis of Developmental Therapy: (Page 29): ICDD understands a number of individuals are currently receiving services within agencies that may be easily identified within more inclusive and typical community settings. Adults report learning to sew, learning karate, cooking, creating power point presentations, to name a few. The skills taught within each of these topics are in most cases, easily accessed through the community. However, agencies will need a billing mechanism to provide necessary 1:1 supports for some individuals to participate, unless they are in supported living or self-direction. This is an area ICDD recommends training for direct support to learn how to not over-support a participant and to encourage peers within a given class to engage with the participant to promote natural support and the development of relationships.

**Response:**

Idaho Medicaid agrees that skills training should occur in natural environments that promote inclusion in the community. Currently, agencies do have a billing mechanism to deliver individual community based developmental therapy. The type (individual or group), amount, frequency and duration of developmental therapy are 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 needs. Providers of individual and group developmental therapy must deliver services according to the person centered plan to ensure that individual choice is not limited.

Idaho Medicaid will be providing additional training to providers prior to implementation of HCBS requirements. Training will include examples of best practices for all of the requirements. Idaho Medicaid would welcome assistance from advocate groups in developing training materials to ensure that topics such as appropriate participant support and development of relationships are covered effectively.

**Comment:** With regard to 2a. Plan for Assessment and Ongoing Monitoring of Residential and Non-Residential Settings: ICDD supports the hiring of a full-time HCBS coordinator. The Council recommends hiring additional staff for each regional HUB to provide the necessary training required for service providers to successfully transition to the new set of expectations with the implantation of the rules.

**Response:** Idaho Medicaid agrees that hiring of additional staff in each region or HUB to facilitate additional training for providers related to HCBS would be ideal. However, due to budget constraints it is not likely that this will happen in the near future. Instead, Idaho Medicaid will leverage existing regional and central office staff as resources allow. Idaho Medicaid is in the process of developing a detailed training plan and has proposed additional trainings for providers to occur prior to implementation of HCBS requirements. Those trainings will include:

- An overview of HCBS regulations with a focus on IDAPA rules in early spring 2016
- A training on the provider toolkit for residential and non-residential providers in early spring 2016
- A training on how to complete a provider self-assessment in early summer 2016

**Comment:** The participant training –What Are Your Rights? This training is planned to be conducted through a WEB-Ex or on-line training. This method of instruction is not best practice for the population of adults with developmental disabilities or families in rural and frontier

Idaho. ICDD strongly recommends that the training plan have a face-to-face component in regional sites statewide.

**Response:** Idaho Medicaid agrees that having a face to face component for training has great value. The state is in the process of developing a detailed training plan and has proposed additional training for participants, including regional face to face training. The goal is to offer face to face meetings in each regional office in addition to having an online training available for those who are comfortable using that format. Idaho Medicaid recognizes that there will be a need for multiple training sites and times in order to best meet the needs of the targeted populations and will work to accommodate those needs as time and resources allow.

**Comment:** The ICDD recommends a comprehensive approach to the many components of necessary face-to-face training for meaningful compliance with the rules for service providers. More importantly, face-to-face education is needed for individuals and families to learn about the rules and ways in which they may exercise choice, control, and have the support needed to lead lives of their choosing. ICDD believes that the Department should identify face-to-face statewide training as a long-term investment in the service system and the lives it is intended to support.

**Response:** Idaho Medicaid agrees that face-to-face education for individuals and families represents an ideal format. The proposed training plan includes educational opportunities at regional offices as time and resources allow. Idaho Medicaid is also willing to work with advocacy groups in Idaho that are interested in supporting a face-to-face training for participants and their families.

### Other Comments

Comments in this section cover a variety of additional topics.

**Comment:** Individuals report not having a choice of roommates within certified family homes and supported living. Individuals also report meeting the provider and roommates of the certified family home or supported living residence on the day of their move. ICDD recommends supporting the practice of individuals having the ability and support to interview potential service providers and potential roommates before selecting their new place of residence. It appears that most participants have little to no control over their place of residence and choice of roommates. Individuals do not appear to know their rights, know they have the ability to say no to an option presented, or additional options available to them.

Additionally, when emergency placements are made within certified family homes, there should be an established short-term timeframe to identify an alternate placement where

roommates are authentically chosen and the location of residence is the informed decision of the participant. Some individuals report having to move to locations outside of city or town limits which cause them to report feeling isolated from a community where they once were able to walk around town to visit friends and family.

**Response:** Idaho Medicaid will continue to explore options for strengthening protections afforded to participants, including finding ways to ensure that participant choices and preferences in choosing their roommate and place of residence are respected to the greatest degree possible. This will be addressed in planned trainings for participants, plan developers and providers. These trainings will include a focus on participant rights and adhering to the person centered planning process. When a participant's needs change, the person centered plan must be updated to reflect that change. The Medicaid HCBS Project Team will collaborate with Licensing and Certification staff and others to develop a proposed solution to this identified issue.

**Comment:** Menu planning, cooking, laundry and other housekeeping activities within developmental disability agencies has been identified as a service no longer provided in that setting as it is not considered a natural setting. A firmer emphasis needs to be placed on these specific skill development activities within certified family homes and in supported living situations with outcome measures annually. The identification of these skill sets are ultimately driven by individualized participant planning goals.

**Response:** Idaho Medicaid acknowledges that skill training is important and should continue to be supported in natural settings. The Medicaid HCBS Project Team will identify opportunities to reinforce existing rules for developmental disability agencies and certified family homes through the person-centered planning process, the plan approval process, and the QA system. This will also be incorporated into training activities and toolkit materials.

**Comment:** ICDD supports the establishment of an assessment and monitoring oversight committee. While the plan indicates the membership is not yet established, the Council strongly recommends seeking participants who access various services to serve on the committee. The Council also recommends a select number of disability advocates to serve on the committee.

**Response:** Idaho Medicaid agrees that an oversight committee that includes Medicaid participants who receive HCB services and advocates for those participants, in addition to Bureau and Division policy staff, is an ideal structure for oversight. The Medicaid HCBS project team will continue to define the role of this committee and explore those options for

committee membership. The state expects to have more details about this committee by early spring 2016.

**Comment:** The ICDD recently led a focused discussion with individuals with developmental disabilities to learn specifically about the current person centered planning process. ICDD provided specific tools to help individuals plan for their individualized planning meeting. The two documents are attached as examples of tools that individuals may use to help with planning: Attachment A: Agenda Format; Attachment B: Dreams, Strengths, Successes, Employment, and Goals

The following are direct comments from individuals with valuable suggestions as to what improvements need to be made to the person centered planning process to assist individuals to run their meetings, and ultimately control their own lives.

- “It would help me if I have time set aside to prepare for my planning meeting”.
- “I want to choose the support I trust to create my planning meeting agenda and a power point to lead my meetings”.
- “I would like training on how to run my own meeting”.
- “I would like to have support to practice running my meeting before I run it for real”.
- “A uniform plain language agenda would be helpful”.
- “I need help advocating for what I want, not what they want”.
- “The dreams worksheet helped me reflect on what I truly want to do with my life and not what others want for me”.
- “With the worksheet I was able to make a one year goal and I am going to make this quite clear at my next meeting, becoming more aware of more ways to better myself and not be focused on what others want”.
- “The worksheet gave me more initiative to action planning my ISP. The form was helpful to plan what my goals are and not just appease everyone else and what the goals are for me”.
- “It helped me figure out where I want to go. Not where my parents want me to go. Goals can be what I want even though they are different than the goals my parents have for me, or we can compromise”.
- “I want a choice in who helps me prepare for my planning prep and practice running my own meeting”.
- “It would be helpful to have plain language worksheets that help identify their dreams, strengths, successes, employment, and their goals”.
- “The worksheet is not filled with jargon and would help people lead their meetings. It gives us a clear picture of what we want”.

- “I liked it, I know ahead of time what my goals are when I am able to write it down and think about it, it helps me know where I want to go. My head goes faster than my mouth so I am trying to get it all down and sometimes I can’t get out all the information out when I am talking, but when I have the chance to write it down before the meeting I can get my goals all out”.
- “The form got me thinking about what goals I want instead of having others think of goals for you”.
- “With the form and time before my meeting I can think about more what I want”.
- “I am more likely to do things I see as important, than what others think are important for me”.
- “The paper helps me focus on my dreams and goals so I can tell people what I want”.
- “It’s helpful because it makes you think of what you really want – as far as a career and where you want to work”.
- “I like the paper because it helps you prioritize your dreams and helps you make a plan of action. It also helps you remember all the things you have already done and gives you a boost of self-confidence”.
- “Really good because you think of what you want and identify what you need help with and what you can do on your own”.
- “For the past 10 years I have been so caught up in helping others, in doing the worksheet I was reminded of the fact that I have dreams I want to pursue. I have been told by other people that I need to focus on myself because I was focused on other people for a long time. Now it’s my turn”.
- “If I don’t start thinking for myself, people will walk all over me the rest of my life”.

Individuals reported the following comments under the category of: Barriers to running my own meeting is:

- “My service providers are disrespectful. They cut me off, not respecting my ideas, saying it will take too long for me to explain”.
- “Guardians dictate what I can and can’t do”.

**Response:** Idaho Medicaid sees the value of utilizing the documents referred to in this comment and of preparing participants for the planning meeting. Training for targeted service coordinators, scheduled for fall 2016, will include discussion of how to prepare participants for a planning meeting and explore ways to foster greater engagement and control of the plan development by participants.

**Comment:** There is no evidence from the assessment activities that any documentation will be required of the service coordinator or support broker for a pre-planning meeting to assist participants with the preparation necessary to lead their person centered planning meetings. ICDD recommends some demonstration of a pre-planning be provided to indicate the support required in order to assist individuals to be in a position to lead their meetings. This area of person centered planning likely would benefit from quality training with a focus on leadership by the participant.

**Response:** Idaho Medicaid agrees that this is an ideal model for service development. The Medicaid program continues to explore options for ensuring participants have the information and support they need to lead their plan development. We will share best practices and potentially the documents you shared with us as part of the training of plan developers.

**Comment:** Nearly all of the folks served under the HCBS waiver (i) in Idaho have either significant physical or behavioral issues, which can impede one from gaining “full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate.” In addition, the new CMS rules require states to “enhance the quality of HCBS and provide protections to participants”. Meeting these over-arching goals require that the system include a way to ensure that support staff can be hired trained and retained at reasonable levels. Direct care staffs are required to work in a variety of settings without the immediate access or support of supervisory staff afforded in institutional settings. Having well trained and experienced direct care staff is integral to achieving the overarching goals of these rules. To date, Idaho has not included in its transition plan any steps to assure that these essential functions of community based staffing are met.

Idaho currently does not have a systematic/ ongoing way of evaluating rates. Any rate increases given to the businesses that offer home and community based services are achieved by lobbying for them by the businesses directly to the legislature. When this occurs, the department remains silent on the need. Most often their silence is deafening to the legislators and results in no increases being given. Below is a summary of the rate increases given to community based service providers over the last 25 years. This equates to a 14.9% percent total increase.

In 1990, all Medicaid Providers received a 7½% rate increase;

In 1996, all Medicaid Providers received a 3% rate increase;

In 1999, all Medicaid Providers received a 2½% rate increase; and

In 2006, DDA and Supported Living Providers received a 1.9% rate increase.

During the last 24 years (2015 is not available as of yet) the Consumer Price Index inflation rates show a 66.36% increase nationally. This leaves a 51.46% deficit in Idaho's rates keeping up with simple inflation. These new rules and other federal requirements have and will continue to add significant costs to community supported service providers. The rules we are currently facing outside of these include the rules associated with the Affordable Care Act and those imposed by the Department of Labor with regards to overtime and definition of salaried employees. Idaho is a rural state with very limited public transportation. To offset this lack of public transportation, our current system of services delivery often includes transportation costs in our rates. Meeting the requirement of "full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate", will drive these costs up significantly.

In 2006, HB 190 and HB 849 directed the Department to secure an outside entity, e.g. JVGA to conduct a rate study. In 2008, the rate methodology and proposed rates were identified, from FY 2006–07 data using the JVGA methodology. While the legislature approved this method and it was imbedding both in rule and Idaho's State Plan to Medicaid who approved the method, these rates were only implemented when the study resulted in a reduction of rates to businesses. No rate increases, based on this CMS approved methodology, have been voluntarily implemented by the state.

In 2011, per House Bill 701, group and individual developmental therapy rates were blended. Therefore, center-based and community-based group developmental therapy rates increased and center-based and community-based individual developmental therapy rates decreased. This type of reimbursement system appears to fly in the face of these new CMS regulations.

In January 2013, Docket no. 16–0310–1201 came before the legislature which specifically "reimbursements will be sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population." The language principally implies that and directs the Department to review "provider reimbursement rates and conduct cost surveys when an access is an issue, e.g. access indicator reflects a potential access or quality issue." determined by "annual statewide and regional access reports by service type" and when (a) change in total number of provider locations and (b) participant complaints and critical incidence logs reveal outcomes that identify access issues for a service" are indicated. Waiting for access/quality issues to arise before looking at current reimbursement rates, again does not appear to meet the overreaching goal of these CMS rules.

In a recent Supreme Court decision *Richard Armstrong, et al., versus Exceptional Child Center, Inc., et al.*, the Supreme Court ruled that it's up to the federal agencies that oversee Medicaid to decide whether a state is in compliance with reimbursement rules. This ruling gives CMS not only the authority but the obligation to consider reimbursement rates when evaluating a states' compliance with section 30A of the Social Security Act. Therefore it is my opinion that before CMS approves Idaho's transition plan that the state be required to lay out for CMS how the JVGA CMS approved rates from 2006 will be implemented and adjusted for both inflation and the added costs of meeting these requirements. This requirement would be the framework for a systematic and ongoing way of evaluating reimbursement rates.

**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, Idaho Medicaid will evaluate provider reimbursement rates.

**Comment:** With regard to Certified Family Home assessment summarized on Page 7, I would suggest a reassessment of your analysis. Certified Family Homes may bear a strong resemblance to the characteristics of an institution. First they are owned and licensed facilities. Second the setting can have the effect of isolating individuals..... Activities, visitors and often food and the times in which people eat etc. are at the discretion of the Certified Family Home Provider. When one reviews the survey questions identified by CMS especially number 3 a through e further shows that in some cases CFH Homes will need to change the fashion in which they offer HCBS services. To offer the types of community integration identified by the new CMS rules will require more than just survey enhancement. These new requirements will also require rate analysis to assure that the funds are available to adequately reimburse CFH providers.

**Response:** The regulations describe three characteristics that indicate a setting is institutional. Those characteristics are:

1. The setting is in a publicly or privately owned facility providing inpatient treatment, or

2. The setting is on the grounds of, or immediately adjacent to, a public institution, or
3. The setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

Idaho has only evaluated settings against the first two characteristics. We did not find any CFHs that met either of the first two characteristics. The assessment of all settings against the third characteristic will happen in 2017. At that time, Idaho Medicaid will follow up with any providers to remediate issues. Providers who do not respond adequately to ensure community integration may be subject to corrective action.

**Comment:** With regards to non-residential services setting: there are many common themes within the individual rules associated with non-residential settings that are going to challenge Idaho supported living and other non-residential HCBS Waiver services. It is my sincere hope that the state and CMS can work together to meet the health and safety requirements of folks with significant intellectual disabilities in a balanced approach to the freedoms associated with the new CMS rules. For example access to the greater community when having difficulty with one's mental health may put the individual at risk of being jailed, or worse if acting inappropriately. Defining "to the same degree of access as individuals not receiving Medicaid HCBS" is going to be challenging. It will be critical that once that standard is set, that rate studies be done to assure staffing levels and qualifications meet the need of the people served.

**Response:** Medicaid agrees that community integration will challenge many provider types and some will have to make changes to their service delivery settings or to their operations. It is our [goal](#) that we can offer tools and best practice guidelines to support all providers to meet this requirement.

Idaho Medicaid believes that safeguards are built into the HCBS regulations to allow an individual's right to have choices and to experience the outcomes of those choices without putting them at risk. Reducing risk for individuals receiving Medicaid HCBS should not involve abridgement of their independence, freedom, and choice unnecessarily. Restricting independence or access to resources is appropriate only to reduce specific risks. If a provider is aware of risks to the participant's health or safety, or the safety of the community, the provider is responsible for ensuring safeguards are implemented to reduce the risk and are reflected in the person centered service plan.

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, Idaho Medicaid will evaluate provider reimbursement rates.

# Task Details

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Idaho's HCBS Statewide Transition Plan

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## 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	<ul style="list-style-type: none"> <li>Setting analysis</li> <li>Results are in the STP</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>Audio and PowerPoint of WebEx meetings posted on webpage</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Participants</li> <li>Advocates</li> </ul>	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)	<ul style="list-style-type: none"> <li>Transition Plan (V1)</li> <li>Public notices</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> <li>Participants</li> <li>Providers</li> <li>Advocates</li> </ul>	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	<ul style="list-style-type: none"> <li>Log of all comments</li> <li>Analysis of comments</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>Setting analysis</li> <li>Results are in the STP</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>Audio and PowerPoint of WebEx meetings posted on webpage</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Participants</li> <li>Advocates</li> </ul>	Complete

<b>Operational Readiness</b>						
<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources/Deliverables</b>	<b>Key Stakeholders</b>	<b>Status</b>
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	<ul style="list-style-type: none"> <li>Assessment and monitoring plan for residential service settings</li> </ul>	<ul style="list-style-type: none"> <li>Participants</li> <li>Providers</li> <li>Department staff</li> <li>Advocates</li> </ul>	Complete
Incorporate new information into Transition Plan	Add in assessment and monitoring plan for residential settings.	December 2014	January 2015	<ul style="list-style-type: none"> <li>Draft Transition Plan</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>Assessment and monitoring plan for non-residential service settings</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>HCBS Rules in IDAPA</li> </ul>	<ul style="list-style-type: none"> <li>All stakeholders</li> </ul>	Complete
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	<ul style="list-style-type: none"> <li>Transition Plan (v3)</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>Update to the Transition Plan</li> <li>Public comments and responses</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Participants</li> <li>Advocates</li> <li>Department staff</li> </ul>	Complete
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. Initial work will be a long term study about implementation and data will be gathered in 2016 and again in 2019.	September 2015	Ongoing – initial input will be gathered and summarized in early 2017	<ul style="list-style-type: none"> <li>Report to Medicaid sometime in early 2017</li> </ul>	<ul style="list-style-type: none"> <li>Participants</li> <li>Advocates</li> <li>Medicaid</li> </ul>	In process

<b>Operational Readiness (continued)</b>						
<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources/Deliverables</b>	<b>Key Stakeholders</b>	<b>Status</b>
Business processes for assessment activities	Define the completion, reporting and tracking processes for all aspects of the assessment.	September 2015	December 30, 2016	<ul style="list-style-type: none"> <li>• Flow diagrams</li> <li>• Job Aides</li> <li>• Operational Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	In process
<del>Risk stratification tool/process.</del> New Assessment strategy as of 3/2016 no longer requires a risk stratification tool or process.	<del>Develop a risk stratification tool/process for use determining which providers should receive an HCBS specific on-site visit.</del>	<del>January 2016</del>	<del>March 2016</del>	<del>• Risk stratification tool/process</del>	<del>• Department staff</del>	<del>Not started</del>
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	<ul style="list-style-type: none"> <li>• On-site HCBS assessment tool</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	Complete
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	<ul style="list-style-type: none"> <li>• Standards for non-residential congregate settings</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Participants</li> <li>• Advocates</li> <li>• Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>• Written information, form yet to be determined.</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Participants</li> <li>• Advocates</li> <li>• Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>• Meeting comments and responses</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	Complete
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	<ul style="list-style-type: none"> <li>• Training Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> <li>• Providers</li> <li>• Participants</li> </ul>	Complete
WebEx on HCBS implementation status	WebEx for all stakeholders on HCBS implementation status with a focus on rules.	April 4, 2016	April 29, 2016	<ul style="list-style-type: none"> <li>• WebEx document</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	Complete
Provider training on the Toolkit, to be offered twice	Toolkit training, how to use it, what the content is, etc.	July 26, 2016	August 2, 2016	<ul style="list-style-type: none"> <li>• WebEx</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	Not started
		December 5, 2016	December 30, 2016	<ul style="list-style-type: none"> <li>• Lectora posted</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	Not started
Provider training - Completing the Provider Self-Assessment, to be offered twice	Provider training on how to complete the Provider Self-Assessment and how and why this tool will be used.	August 9, 2016	August 23, 2016	<ul style="list-style-type: none"> <li>• WebEx with audio</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	Not started
		December 5, 2016	December 30, 2016	<ul style="list-style-type: none"> <li>• Lectora posted</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	Not started

<b>Operational Readiness (continued)</b>						
<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources/Deliverables</b>	<b>Key Stakeholders</b>	<b>Status</b>
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.	October 1, 2016	November 30, 2016	<ul style="list-style-type: none"> <li>• Training materials</li> </ul>	<ul style="list-style-type: none"> <li>• Plan developers</li> </ul>	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 validation/assessment, as well as tracking and reporting protocols.	October 2016	November 2016	<ul style="list-style-type: none"> <li>• WebEx</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	Not started
Participant training – What are Your Rights? No longer taking the lead on this, but will work with the advocate community to do so as requested	Participant training – what are your rights, via WebEx and/or an on-line training.	January 2, 2017	January 31, 2017	<ul style="list-style-type: none"> <li>• WebEx</li> <li>• What are Your Rights Document</li> </ul>	<ul style="list-style-type: none"> <li>• Participants</li> </ul>	Not started
<b>One-Time Assessment Activities</b>						
<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources/Deliverables</b>	<b>Key Stakeholders</b>	<b>Status</b>
Participant feedback and information sharing (Not part of the formal assessment process but will be used to inform future Medicaid quality assurance work for HCBS compliance)	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	<ul style="list-style-type: none"> <li>• Training materials</li> <li>• Survey of questions</li> <li>• Summary of feedback received</li> </ul>	<ul style="list-style-type: none"> <li>• Participants</li> <li>• Department staff</li> <li>• Advocates</li> </ul>	In process
Acknowledgement of Compliance	As part of the plan signature requirement, providers and plan developers must sign the service plan indicating compliance with HCBS requirements. Participants must sign the plan indicating informed consent.	July 2016	Ongoing		<ul style="list-style-type: none"> <li>• Participants</li> <li>• Plan Developers</li> <li>• Providers</li> </ul>	In process
Participant Rights document	A participant rights "These are Your Rights" document will be reviewed with participants during the plan development process.	July 1, 2016	Ongoing	NA	<ul style="list-style-type: none"> <li>• Participants</li> <li>• Plan Developers</li> <li>• Providers</li> </ul>	In process
Baseline assessment of provider compliance	A significantly valid sample size of providers will be asked to participate in the baseline assess work as described in Section 3a above.	April 4, 2016	June 30, 2016	Report on the results of the baseline assessment	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	In process

<b>One-Time Assessment Activities (continued)</b>						
<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources/Deliverables</b>	<b>Key Stakeholders</b>	<b>Status</b>
Provider Self-Assessment	Providers will be expected to complete a questionnaire that assesses their compliance with the setting requirements. They will be required to maintain the self-assessment with evidence of their responses.	August 1, 2016	December 31, 2016	Providers are required by IDAPA to complete and sign the Provider Self-Assessment	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	Not started
Additional participant feedback	Analysis of information received from existing participant experience measures.	January 1, 2017	Ongoing	N/A	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	Not started
Site-specific assessments of compliance)	Site visits will be conducted specifically to assess HCBS compliance, corrective action plans will be issued as appropriate.	January 2, 2017	December 31, 2017	<ul style="list-style-type: none"> <li>• Completed Site Assessment documents</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Department staff</li> <li>• Participants</li> </ul>	Not started
Data Aggregation	The HCBS Coordinator will combine information from all site-specific assessments and follow-up CAP activities to determine which settings are compliant and which are not	June 1, 2017	February 28, 2018	<ul style="list-style-type: none"> <li>• Compliance determination</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	Not started
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 30, 2018	May 31, 2018	<ul style="list-style-type: none"> <li>• Updated Transition Plan</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	Not started

## 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	<ul style="list-style-type: none"> <li>Survey document with site results</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Department staff</li> <li>Participants</li> </ul>	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	<ul style="list-style-type: none"> <li>Audio and PowerPoint of WebEx meetings posted on webpage</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Participants</li> <li>Advocates</li> </ul>	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	<ul style="list-style-type: none"> <li>Summary of comments</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Department staff</li> </ul>	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	<ul style="list-style-type: none"> <li>Standards for Integration for Settings with Five or More Beds</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Department staff</li> <li>Advocates</li> </ul>	Complete
Determine best practices for integration for settings <u>with four or fewer beds</u> (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	<ul style="list-style-type: none"> <li>Standards for Integration for Settings with Four or Fewer Beds</li> </ul>	<ul style="list-style-type: none"> <li>Providers</li> <li>Department staff</li> <li>Advocates</li> </ul>	Complete

Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
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	<ul style="list-style-type: none"> <li>• Verification document from quality assurance staff</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Department staff</li> <li>• Participants</li> </ul>	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	<ul style="list-style-type: none"> <li>• Update in Transition Plan (v3)</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Participants</li> <li>• Advocates</li> <li>• Department staff</li> </ul>	Complete
Assessment of all settings against the third characteristic of an institution to ensure settings integrate and do not isolate. The state will also repeat the assessment of all settings against the first two characteristics of an institution.	Include the work to assess settings for integration vs. isolation into the overall assessment and monitoring plan.	March 2016	June 30, 2017	<ul style="list-style-type: none"> <li>• Assessment and monitoring plan for integration</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	In process, see details tasks in Section 3h. <i>Milestones and Timeline for Outstanding Work</i>
Transition Plan updated	Insert results of settings presumed to institutional into the final version of the Transition Plan, publish for public comment.	March 2, 2018	April 2, 2018	<ul style="list-style-type: none"> <li>• Updated Transition Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> </ul>	Not started

## Tasks and Timeline for Remediation and Participant Relocations

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 2 2015	March 19 2019	<ul style="list-style-type: none"> <li>• PowerPoints</li> <li>• WebEx meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Participants</li> <li>• Providers</li> <li>• Advocates</li> </ul>	In process
Idaho Administrative Code (will allow enforcement)	Revise IDAPA to reflect final regulations on HCBS setting requirements.	March 2015	Promulgated winter of 2016, go into effect July 1 2016	<ul style="list-style-type: none"> <li>• Public notices</li> <li>• Negotiated rulemaking</li> <li>• Draft rules</li> <li>• Analysis of public comments</li> <li>• Final rules</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Participants</li> <li>• Advocates</li> <li>• Idaho Legislature</li> </ul>	Complete
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 2, 2016	July 29, 2016	<ul style="list-style-type: none"> <li>• Provider manuals</li> <li>• Provider agreement</li> <li>• Universal Assessment Instrument (UAI)</li> <li>• Individual Service Plan (ISP)</li> <li>• Operation manuals</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> <li>• Participants</li> <li>• Providers</li> </ul>	In process
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 2, 2016	March 31, 2016	<ul style="list-style-type: none"> <li>• IDAPA</li> <li>• Remediation Plan</li> <li>• Business process details, diagrams, and descriptions</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> <li>• Providers</li> </ul>	Complete
<del>Detailed Remediation Plan and Relocation Plan incorporated into the Provider Toolkit</del> The information in the State Transition Plan will be referenced in place of this	<del>Include all details concerning remediation in the provider toolkit.</del>	<del>May 2, 2016</del>	<del>July 15, 2016</del>	<ul style="list-style-type: none"> <li><del>• Providers</del></li> <li><del>• Department staff</del></li> </ul>	<ul style="list-style-type: none"> <li><del>• Toolkit</del></li> </ul>	Complete
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.	April 4, 2016	April 28, 2016	<ul style="list-style-type: none"> <li>• Relocation Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> <li>• Participants</li> </ul>	Complete

Action Item	Description	Proposed Start Date	Proposed End Date	Sources/Deliverables	Key Stakeholders	Status
Publish the Remediation Plan and Relocation Plan details for public comment in the STP.	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 3, 2016	July 4, 2016	<ul style="list-style-type: none"> <li>• Proof of public noticing</li> <li>• Summary of comments and changes made as a result</li> <li>• Reasons the state disagreed with a comment if applicable</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	Complete
Assessment and Monitoring Oversight Committee	Establish membership, write charter, and initiate monthly meetings.	January 31, 2017	March 19, 2019	<ul style="list-style-type: none"> <li>• Charter</li> <li>• Meeting documentation</li> </ul>	<ul style="list-style-type: none"> <li>• Department staff</li> <li>• Participants</li> <li>• Advocates</li> </ul>	Not started
Time for providers to come into compliance (6 months)	Allow providers six months to move to full compliance.	July 1, 2016	December 31, 2016	NA	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	In process
Provider remediation	Require corrective action plans for providers that have failed to meet standards or have failed to cooperate with the HCBS transition.	January 2, 2017	December 29, 2018	<ul style="list-style-type: none"> <li>• Provider letters</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Department staff</li> </ul>	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.	January 2, 2017	April 31, 2018	<ul style="list-style-type: none"> <li>• Provider letters</li> </ul>	<ul style="list-style-type: none"> <li>• Providers</li> <li>• Department staff</li> </ul>	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.	March 2, 2018	April 2, 2018	<ul style="list-style-type: none"> <li>• State Transition Plan</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	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.	January 2, 2017	March 19, 2019	<ul style="list-style-type: none"> <li>• Provider letter</li> <li>• Participant letter</li> <li>• Updated person centered plan</li> </ul>	<ul style="list-style-type: none"> <li>• Participants</li> <li>• Providers</li> <li>• Department staff</li> </ul>	Not started
Full compliance	ALL settings will be fully compliant.	March 19, 2019	March 19, 2019			
Ongoing monitoring	Implement approved monitoring plan activities.	July 1, 2016	Ongoing: this will become part of ongoing business operations and will not be phased out	<ul style="list-style-type: none"> <li>• Quality assurance processes and documentation</li> </ul>	<ul style="list-style-type: none"> <li>• All stakeholders</li> </ul>	In process

## Attachment #6

### Idaho Response to CMS Request for Additional Information

**Note:**

**The content of the CMS letter received by Medicaid on 1.7.16 is found in black font. Idaho's responses have been added in blue.**

Dear Idaho Team,

CMS is writing as a continuation from past discussions of the revised statewide transition plan (STP) submitted by Idaho.

CMS requested additional detail regarding settings included in the STP, the systemic assessment, site-specific assessments, remedial action, heightened scrutiny, and relocation of beneficiaries.

CMS has identified the timelines below for Idaho to provide this information to CMS.

CMS requests Idaho submit a revised STP with a completed systemic review on or before March 31, 2016. The systemic review section of the STP should include a crosswalk of the new federal requirements, state regulations, action steps, and/or remediation strategy with start and end dates. **A redlined version of the STP was submitted to CMS on March 31, 2016, with this crosswalk completed.**

Additionally, as noted in the December 30, 2015, feedback email/letter and conference call, please address the following specific issues:

- CMS notes the state's systemic assessment included specific sub-codes for each requirement. However, during cross-check of the codes, CMS identified concerns about language regarding the use of restraints in Habilitative Supports and Habilitative Intervention settings. The concern is with Requirement 7, IDAPA 16.03.21.905.01, 16.03.21.905.02, 16.03.21.905.03 and, "Be free of mechanical restraints, unless necessary for the safety of that person or for the safety of others." Please review the code for references to restraints and remediate relevant sections to ensure the use of restraints is determined only through the person-centered plan as described in 42 CFR 441.301(c)(2)(xiii)(A) through (H) and is not at the discretion of the provider.  
**Pending rule language (IDAPA 16.03.10.313) requires that goals and strategies used to mitigate risk (including restraints) must be documented in the person-centered plan. The person-centered plan must be finalized and agreed to by the participant, in writing, indicating informed consent. This information has been added to *Section 1c: Systemic Remediation*.**
- CMS notes the state has included clear determinations for each code. However, the state did not include remediation strategies in certain areas where the state code was determined to be

silent. For example, in the Analysis of Idaho's Residential Settings the state identified that code was silent for Requirement 13 for Certified Family Homes, yet noted that no remediation was needed (p. 9). The same issue was noted for Adult Day Health, Requirement 9 (p. 22); Community Crisis Supports, Requirement 9 (p. 24); and Day Habilitation, Requirement 9 (p. 27). Please ensure that proposed remediation will address all issues identified in the systemic assessment, especially where code is silent.

**In those places where code was silent on a requirement, information has been added to clarify the state's remediation strategy. Please see *Section 1a: Systemic Assessment of Residential Settings*, and *Section 1b Systemic Assessment of Non-Residential Settings*.**

- CMS recognizes the state provided general components of the remediation plan. Please give additional details about the corrective action plans including, how they will be issued, the timeline for remediation, and validation processes, including stakeholder feedback as applicable.

**The state has added the requested detail in *Section 3b: Site-Specific Remediation*.**

#### **Other concerns:**

- The state has expanded the definition of "peers." Please ensure that systemic remediation efforts include this new definition where appropriate.

**IDAPA 16.03.10.313 has been modified to include the state's definition of peers as including individuals with and without disabilities (i.e., individuals who do not require supports or services to remain in their home or community). This is noted in *Section 1c: Systemic Remediation*.**

- Language from the Office of the Attorney General's Landlord and Tenant Guidelines as well as Idaho Legal Aid Services notes that, "a tenant must be properly served with a three-day or 30-day written notice, depending on the circumstances... A 30-day written notice is permissible when a tenant is renting for an open-ended period of time...[and] a three-day written notice is permissible only if a tenant: failed to pay rent...violated the lease...or engaged in the unlawful delivery, production or use of a controlled substance on the premises." Source: <http://www.ag.idaho.gov/publications/consumer/LandlordTenant.pdf>. Based on these codes, a 15-day notice for eviction is not sufficient for residents of Certified Family Homes as it appears to be less than the landlord/tenant laws. Please remediate state tenant policies to reconcile this discrepancy.

**The state intends to promulgate changes to licensing and certification rules in IDAPA for certified family homes during the 2017 legislative session to align with this requirement. Those rule changes will go into effect July 1, 2017. In the interim, the Division of Licensing and Certification is moving forward with changes to the admission agreement used by certified family homes to align with state landlord tenant guidelines. Certified family home providers are being trained on the new expectations, the admission agreement has been revised, and this work should be fully implemented by July 1, 2017. This information has been added in *Section 4: Major Milestones for Outstanding Work*.**

- Please make the revisions to the milestones and timelines as discussed on December 30, 2015. **A new section has been added to the STP. Please see *Section 4: Major Milestones for Outstanding Work*. Here all major milestones that are outstanding are identified along with key tasks and dates for the remaining work.**

CMS is concerned about the state's completion time of the settings assessments. The state has identified one year to complete the settings assessment that will start January 2017 and complete in December 2017. CMS is concerned that starting this critical activity this late will not allow the state adequate time to remediate settings; relocate participants and present evidence for heightened scrutiny to CMS. As discussed on the conference call on December 30, 2015, conducting the assessments of settings is vital and should be completed sooner in the process of the transition plan as the results will greatly impact the remediation efforts and needs. CMS recommends the state reconsider the timelines for beginning the assessment process and complete an initial assessment in 2016. CMS encourages the state to utilize other state entities and staff resources to conduct settings assessments, such as case managers, licensing/certification in order to support the state's efforts to evaluate the settings. Additionally, the state will need to address the following issues and submit an amended STP to CMS on or before July 31, 2016, which includes a public comment period.

**The state has initiated a baseline study of provider compliance. The state is currently contacting a statistically significant sample of HCBS providers and asking them to complete a self-assessment of their compliance. Providers are also being asked to identify the evidence they have to support their responses. This work is expected to be completed by June 30, 2016. The training plan for providers as well as the self-assessment tool and the provider toolkit will be modified as needed based on the results of this baseline work. This information has been added in *Section 3a: Site-Specific Assessment*.**

**Site-Specific Assessments:**

- The state notes RALFs and CFHs will be visited annually as part of the assessment process; however, it is unclear whether other setting types will receive annual on-site visits or if only a sample of settings will receive an on-site visit. Please clarify whether each setting will receive an on-site visit, the percentage of sites that will be visited, and the timeframe for the visits. **This information has been added in *Section 3a: Site-Specific Assessment*. A stratified, statistically valid sample of all HCBS setting types will receive an on-site assessment in 2017. Updated information regarding Idaho's plan for ongoing monitoring is located in *Section 3d: Ongoing Monitoring*.**
- Please clarify how the state will select the sample of settings that receive an on-site validation visit and if the sample will be statistically significant. **This information has been added in *Section 3a: Site-Specific Assessment*. The process for selecting the stratified, statistically valid sample of all HCBS setting types is described in detail.**
- The state mentions that existing quality assurance (QA) activities will be used to identify HCBS rule violations, but does not specify what these QA activities are. Please describe what QA processes and tools will be utilized.

**Information has been added to *Section 3d: Ongoing Monitoring* to describe QA processes and tools.**

- The distinction between validation and monitoring activities for residential settings is unclear and appears to overlap. Please clarify which activities may be considered validation for the setting assessments and which activities are part of ongoing monitoring.

**Idaho has worked to be more consistent in its use of these terms throughout the STP.**

- Please add information in the timeline describing the milestones needed for the development of the provider assessment toolkit.

**This information has been added in *Section 4: Major Milestones for Outstanding Work*.**

- Please include the milestones from the assessment timeline that was included in the state's response within the STP.

**The assessment milestone and timeline summary with measurable goals for completing the assessment have been added in *Section 3a: Site-Specific Assessment*.**

### **Heightened Scrutiny:**

- Please include more details about the process and tools used to evaluate settings against the first two criteria of heightened scrutiny and how the state intends to determine whether any settings are isolating.

**Additional information on Idaho's process for heightened scrutiny has been added.**

**Please see *Section 2: Analysis of Settings for Characteristics of an Institution*.**

- The state writes that Certified Family Homes are not isolating due to "the intention of the setting" without providing evidence of non-isolating characteristics. Please identify any processes and tools used to determine whether Certified Family Homes may be isolating.

**Idaho did not intend to assume compliance based on rule language or service definition alone. Idaho has now completed its assessment of all certified family homes to determine if any setting has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS funding. This assessment was completed by Licensing and Certification staff who visit every certified family home every year. So they have been able to use their "eyes on" experience with each home to determine compliance or non-compliance with this requirement. Please see *Section 2: Analysis of Settings for Characteristics of an Institution* for details.**

- Finally, the title for section 1b of the STP, Initial Analysis of Settings Presumed to be Institutional, is misleading as it suggests that the ensuing paragraphs describe settings that are institutional in nature. Please clarify this language.

**The title has been changed to clarify. It now reads: *Section 2: Analysis of Settings for Characteristics of an Institution*.**

### **Relocation of Beneficiaries:**

- The state has included basic information regarding the relocation of beneficiaries. Please provide a more detailed timeline with milestones and corresponding timeframes to ensure that full transition may occur before the 2019 deadline.

**Details about the state's timeline for relocation of participants have been added to the transition plan. Please see *Section 3c: Participant Relocation*.**

If the state is unable to change its December 2017 deadline for the assessment process, the state should revise the STP to break the assessment process into quarterly milestones to indicate which settings will be assessed by quarter and then provide quarterly updates and/or progress reports on the completion of the assessment milestones identified within the STP. These details should be included within the July 31, 2016, amended STP submission.

**Quarterly milestones for assessment have been added. Please see *Section 3a: Site-Specific Assessment*.**

As discussed on December 30, 2015 call, CMS is concerned about Children's Residential Care Facilities, which has been identified by the state as a setting used under the DD 1915(c) waiver. CMS would like to discuss this setting in more detail with the state as it appears that the state may be operating a waiver in an unapproved manner.

**Details about the status of this work have been added to the transition plan. Please see *Section 2c: Children's Residential Care Facilities*.**

## Attachment #7

### 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 September 2015. They include:

- All changes made as a result of CMS comments received between August 10, 2015 and January, 2016
- Addition of new details determined since the September 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, some content, status of tasks and corresponding dates

#### 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 <u>non-residential</u> 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	Gap Analysis of Non-Residential Service Settings: added full IDAPA citations	9/11/15

pgs. 15-33	to gap analysis and noted if rule was silent. Additions were inserted in red.	
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	<ul style="list-style-type: none"> <li>Attachment 1: Integration Standards for Provider Owned or Controlled Residential Settings with Five or More Beds - deleted</li> <li>Attachment 2: Integration Standards for provider Owned or Controlled Residential Settings with Four or Fewer Beds – deleted</li> <li>Current attachments have thus been renumbered</li> <li>Attachment 4 has been added: Pubic Comments to the Idaho HCBS Settings Transition Plan Posted in September 2015</li> <li>Attachment 5 has been added: An Index of Changes to the Transition Plan</li> </ul>	10/14/15
Transition Plan Summary and the Overview	These two sections were updated to reflect the current status of the work	6/3/2016
Section 1	Renamed the section and subsections in Section 1: <ul style="list-style-type: none"> <li>Section 1, previously titled <i>Section 1: Results of Idaho Medicaid’s Initial Analysis of Settings</i>, has been retitled to <i>Section 1: Systemic Assessment and Systemic Remediation</i>.</li> <li>Section 1a., previously titled <i>Gap Analysis of Residential Settings</i>, has been retitled to <i>1a. Systemic Assessment of Residential Settings</i>.</li> <li>Section 1b., previously titled <i>Gap Analysis of Non-Residential Service Settings</i>, has been retitled to <i>1b. Systemic Assessment of Non-Residential Service Settings</i>.</li> </ul>	6/3/2016

	<ul style="list-style-type: none"> <li>• <i>Section 1c: Systemic Remediation</i> contains a new summary of the work remaining for completing Idaho’s systemic remediation.</li> </ul> <p>Throughout Section 1 changes to the gap analysis tables were made to ensure that everywhere there is an identified gap there is a corresponding remediation. Changes were also made to identify Idaho’s new strategy for ensuring HCBS participants have the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the state, county, city, or other designated entity.</p>	
Section 2:	<ul style="list-style-type: none"> <li>• Created a new section, <i>Section 2: Analysis of Settings for Characteristics of an Institution</i>. All information related to assessing settings for the characteristics of an institution was moved to Section 2.</li> <li>• The subsections were also reorganized.</li> <li>• Idaho’s strategy for assessing settings has been updated.</li> <li>• A new subsection was added, <i>2c: Children’s Residential Care Facilities</i>. All information related to this was moved here and an update on the status of that work was provided.</li> <li>• Information on Idaho’s plan for heightened scrutiny was added.</li> </ul>	6/3/2016
Section 3	<ul style="list-style-type: none"> <li>• Section 3 has thus been renamed and now is titled: <i>Section 3: Site-Specific Assessment and Site-Specific Remediation</i>.</li> <li>• The overview has been updated.</li> <li>• Section 3a contains new details about how Idaho will complete its site-specific assessment of residential and non-residential settings. A table containing the assessment process timeline and milestones was added.</li> <li>• Section 3b contains new details about the corrective action process and timeline Idaho will use for site-specific remediation.</li> <li>• Section 3c contains an expanded explanation of the plan for participant relocation, including a timeline for that work.</li> <li>• Section 3d contains added detail on Idaho’s ongoing monitoring plan.</li> </ul>	6/3/2016
Section 4	<p><i>Section 4: Major Milestones for Outstanding Work</i> is new. It contains the major milestones and work remaining for Idaho to come into full compliance. The intent here is to better organize the presentation of remaining work for the reader and to identify what milestones the state will be reporting to CMS on as Idaho moves to full compliance.</p>	6/3/2016
Throughout	<p>Initially, Idaho planned to develop standards for certain aspects of the requirements such as “... to the same degree as...” More recently, Idaho is choosing to provide suggestions for best practice to providers rather than to have standards that all providers must follow. Thus, all references to standards have been updated to read “best practices”.</p>	6/3/2016
Attachments	<ul style="list-style-type: none"> <li>• The tables with the tasks and related timelines were removed from the body of the STP and can now be found in Attachment 5.</li> <li>• Idaho has added attachment #6, which is a copy of the letter Idaho received from CMS with comments on the most recent STP submitted to them. Idaho has added information on how the STP has been modified to address CMS’s concerns.</li> </ul>	6/3/2016