

# **Idaho Statewide 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**  
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**Posted for Public Comment (v4): June 3, 2016, through July 4, 2016**  
**Submitted to CMS and reposted as revised: July 29, 2016**  
**Submitted to CMS and reposted as (v5): September 20, 2016**

**Posted for Public Comment (v6): June 1, 2018, through June 30, 2018**  
**Submitted to CMS and reposted as revised: July 31, 2018**

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#### **Purpose**

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

#### **Transition Plan 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 Statewide 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. The web addresses and links to the relevant waivers and IDAPA are provided below:

- 1915(i) services in the Standard Plan: The 1915(i) serves individuals (children and adults) not otherwise eligible for Medicaid who meet needs-based criteria of the 1915(i) benefit.  
<http://www.healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/StandardPlan.pdf>
- Aged and Disabled Waiver (A&D): The A&D Waiver serves individuals over age 65, and individuals ages 18-64, who meet skilled nursing facility level-of-care.  
<http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/AandDWaiver.pdf>
- Idaho Developmental Disabilities Waiver, (Adult DD): The Adult DD Waiver serves individuals 18 years of age or older who meet Intermediate Care Facility for the Intellectually Disabled (ICF/ID) level-of-care.  
<http://healthandwelfare.idaho.gov/Portals/0/Medical/DD%20Waiver.pdf>
- Children’s Developmental Disabilities Waiver, (Children’s DD): The Children’s DD Waiver serves individuals up to the age of 17 years of age who meet Intermediate Care Facility for the Intellectually Disabled (ICF/ID) level-of-care.  
[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: The Act Early Waiver serves children from the age of 3 through 6 years old who meet Intermediate Care Facility for the Intellectually Disabled (ICF/ID) level-of-care.  
<http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/ActEarlyWaiver.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>
- A&D Waiver Provider Training  
<http://healthandwelfare.idaho.gov/Medical/Medicaid/HomeCare/tabid/215/Default.aspx> (under Provider Information/Training)
- Idaho Medicaid Provider Agreement and Additional Terms
  - <https://www.idmedicaid.com/PRC%20Information/Forms.aspx>
  - <https://www.idmedicaid.com/Provider%20Enrollment%20Paper%20Maintenance%20Forms/Idaho%20Medicaid%20Provider%20Agreement.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 July 2018. More information can be found by clicking on or typing the following web address into the browser: <https://www.medicaid.gov/medicaid/hcbs/index.html>.

Copies of the Transition Plan may be obtained by printing it from Idaho's HCBS webpage at [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 Transition Plan on five 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 Transition Plan to CMS for review. The third comment period was from September 11, 2015, through October 12, 2015. It was resubmitted to CMS on October 23, 2015. The fourth comment period is from June 3, 2016, through July 4, 2016. The Transition Plan was resubmitted to CMS on July 29, 2016. It was then resubmitted to CMS without a comment period on September 20, 2016. The fifth comment period was from June 1, 2018, through June 30, 2018, and was resubmitted to CMS on July 31, 2018.

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

- a) Copies of the were posted on the state's HCBS webpage: [www.HCBS.dhw.idaho.gov](http://www.HCBS.dhw.idaho.gov). At that site, 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 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-(833) 201-7468

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 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 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's 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. In August 2016, the institution analysis was repeated with questions added related to isolation. Medicaid received information from Licensing & Certification regarding Residential Assisted Living Facility (RALF) settings that may potentially isolate individuals. Due to setting location or Licensing & Certification staff not recently surveying the setting, 113 RALFs and three Certified Family Homes (CFHs) were assessed using an isolation addendum in addition to the Provider Self-Assessment Tool. Idaho identified four 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.

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, the process was repeated with questions added related to isolation. This assessment again found 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 were completed January 4, 2018. The plan for provider remediation and for relocation of impacted participants is included within this 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 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 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) programs 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 Statewide 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, frequently asked questions, updates regarding the development of Idaho's draft Transition Plan, and a Provider Toolkit. 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 webinars were hosted July through September 2014 which summarized the new regulations and solicited initial feedback from a wide variety of stakeholders. A second series of webinars, conference calls, and in-person training was launched in April 2016 and continued through December 2016. HCBS providers, participants, and advocates were invited to attend these trainings. 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 engage stakeholders.
- 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 summary of public comments.
- An index of changes made in version three of the plan.

The state received comments from the Centers for Medicare and Medicaid Services (CMS) on the Transition Plan in 2015 and again in early 2016. The state developed responses to the comments and incorporated changes into the plan to address concerns identified. The CMS letters, along with the

state's responses, have been posted on the state's webpage. 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, June 3, 2016, September 20, 2016, and again on June 1, 2018. 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, 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. Analysis results demonstrated which areas of operation complied with the new regulations and which areas needed strengthening. Refer to the links provided in the Introduction for access to rule and waiver language.

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 cited only partially supported the requirement and thus additional rule changes are noted in the remediation strategy. For example, Idaho administrative rule (IDAPA) currently requires residential providers to offer residents three meals a day. Idaho determined this demonstrates partial support for the regulation ensuring individuals have access to food at any time. A number of citations in the "support" column are from Licensing and Certification rules – Medicaid rules set a higher standard for licensed and certified providers that serve Medicaid participants. Thus, the state identified additional changes to IDAPA were needed.
2. Idaho acknowledges that this gap analysis was only the first step in the assessment process. It has been used to identify where Idaho lacked documented support for the setting quality requirements. *Section 3a* of this document outlines the on-site assessment process Idaho used to evaluate provider compliance with HCBS requirements.

Results of the gap analysis of residential settings were shared with stakeholders via a WebEx meeting on September 16, 2014. 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 informed the state's

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 service delivery setting. This chart is intended to illustrate all the service settings that exist in Idaho’s HCBS system. Settings listed as "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 ensure 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.

<b>Adult Developmental Disabilities Waiver Services</b>		
<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>

<b>Adult Developmental Disabilities Waiver Services</b>		
<b>Service Description</b>	<b>Applicable HCBS Qualities</b>	<b>Service Settings</b>
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>

<b>Aged and Disabled Waiver Services</b>		
<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>

<b>Aged and Disabled Waiver Services</b>		
<b>Service Description</b>	<b>Applicable HCBS Qualities</b>	<b>Service Settings</b>
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>

<b>Children’s Home and Community-Based Services</b>		
<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 to transition these settings into full compliance with the new regulations.

<b>Provider Owned or Controlled Residential Settings Gap Analysis</b>			
<b>Federal Requirement:</b>		<b>Analysis of Idaho’s Residential Settings</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>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	Support	Idaho rule (IDAPA 16.03.19.200.05, 16.03.19.275.01), the CFH Provider Manual, and the provider	Rule (IDAPA 16.03.22.550.05) supports the participant’s right to manage funds by indicating

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Federal Requirement:		Analysis of Idaho's Residential Settings	
individuals not receiving Medicaid HCBS.		agreement support the participant's right to manage funds.	that RALF providers cannot require the participant to deposit his or her personal funds with the provider except with the consent of the participant.
	Gap	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10.313. Develop best practice 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.	
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, 16.03.19.200.11) 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	Incorporate HCBS requirement into IDAPA 16.03.10.313. Develop best practice 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.	
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and based on the individual's needs, preferences, and resources available for room and board (for residential settings).	Support	Department processes support that participants must sign the service plan that includes documentation that choice of residential setting was offered.  Waivers and State Plan language support that the service plan development process must use the preferences of the participant and that the residential setting selection must be documented.	Department processes support that participants must sign documentation that the choice of a residential setting was offered.  Waivers and State Plan language support that the service plan development process must use the preferences of the participant and that the residential setting selection must be documented.
	Gap	The state lacks support for ensuring that options are available for participants to potentially choose a private room and that the service plan must document location selection for all service settings. IDAPA is silent.	

Provider Owned or Controlled Residential Settings Gap Analysis			
Federal Requirement:		Analysis of Idaho's Residential Settings	
	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).	
	Gap	None	
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10.313, 16.03.10.315, and 16.03.10.317.	
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 16.03.10.313.01.d and 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,	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).

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

<b>Federal Requirement:</b>		<b>Analysis of Idaho’s Residential Settings</b>	
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.	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.  Modify the current Admission Agreement to provide protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law.  Enhance existing monitoring and quality assurance activities to ensure compliance.	None.
11. Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Support	Rule (IDAPA 16.03.19.600.02, 16.03.19.200.01, 16.03.22.550.02) supports a participant’s right to privacy.	
	Gap	The state lacks support for ensuring that individuals have lockable entrance doors to their sleeping or living units.	
	Remediation	Incorporate HCBS requirement into IDAPA 16.03.10.314.  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.	

<b>Provider Owned or Controlled Residential Settings Gap Analysis</b>			
<b>Federal Requirement:</b>		<b>Analysis of Idaho’s Residential Settings</b>	
	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.	

**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 or with their families. 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 supported living providers understood the new HCBS setting requirements, how the requirements will apply to the work 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 they will be unable to ensure all participants receiving supported living services have opportunities for full access to the greater community and 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. Providers, participants, and other individuals involved in the person-centered planning team will develop individualized support strategies. These support strategies will aid providers in supporting the

participant with integration, independence and choice while maintaining the participant's health, safety, dignity and respect of the participant and the community.

Although HCBS regulations allow states to presume the participant’s private home meets the HCBS setting requirements, the state’s ongoing monitoring activities described in *Section 3d* extend to all HCBS providers and settings.

### 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, or 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.

<b>Non-Residential Service Settings Gap Analysis: Children’s Developmental Disabilities Services</b>			
<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>
1. The setting is integrated in, and facilitates the individual’s full access to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Idaho rule (IDAPA 16.03.10.521.18, 16.03.10.683.04.b, and 16.03.10.683.04.c.ii.) allows habilitative intervention to be provided in three different settings. Idaho rule supports that service settings are integrated and facilitate community access when provided in the home and community.	
	Gap	The state lacks quality assurance/monitoring activities to ensure this requirement is met.  The state lacks standards for integration for services provided in a congregate setting.  The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”	
	Remediation	Enhance and expand existing quality assurance/monitoring activities and data collection for monitoring.  Strengthened IDAPA 16.03.10.313 to support this requirement.  Develop best practice 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	Support	None.	Habilitative intervention providers have no authority under IDAPA to control a participant’s ability to seek employment.

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

<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>
individuals not receiving Medicaid HCBS.	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 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.	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	<p>The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p> <p>The state lacks best practices for integration for services provided in a congregate setting.</p> <p>The state lacks best practices for “the same degree of access as individuals not receiving Medicaid HCBS.”</p>	
	Remediation	<p>Enhance 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 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	Support	Providers have no authority to control participant resources.	

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

<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 same degree of access as individuals not receiving Medicaid HCBS.	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.  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,	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	

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

<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>
and freedom from coercion and restraint are protected.		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 Licensing and Certification.	
	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.  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) was revised when HCBS rules were added to IDAPA. This rule supports an individual right to choose the services received and who provides them. This requirement is monitored through the Division of Family and Community Services Quality Assurance assessment.	
	Gap	None.	None.
	Remediation	None.	None.

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

**Adult Day Health (A&D and Adult DD Waiver)**

Requirement	Support	Gap	Remediation
<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>	<p>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>	<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>
<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>	<p>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.</p>	<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>
<p>3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>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>	<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>

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

**Adult Day Health (A&D and Adult DD Waiver) continued**

Requirement	Support	Gap	Remediation
<p>4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>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.</p>	<p>The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.</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>
<p>5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>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.</p>	<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>
<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>	<p>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.</p> <p>Adult Day Health providers have no capacity to control the participant’s residential setting. Private units in residential settings do not apply.</p>	<p>None.</p>	<p>N/A</p>

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

**Adult Day Health (A&D and Adult DD Waiver) continued**

Requirement	Support	Gap	Remediation
<p>7. An individual’s essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	<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>
<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>	<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>
<p>9. Individual choice regarding services and supports, and who provides them, is facilitated.</p>	<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>

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

**Community Crisis Supports (Adult DD 1915(i))**

Requirement	Support	Gap	Remediation
<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>	<p>Idaho rule (IDAPA 16.03.10.513.11) supports that service settings are integrated and facilitate community access.</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 16.03.10.313.</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>
<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>	<p>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>	<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>
<p>3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<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>

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

**Community Crisis Supports (Adult DD 1915(i)) continued**

Requirement	Support	Gap	Remediation
<p>4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>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.</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 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>
<p>5. The setting includes opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Idaho rule (IDAPA 16.03.10.513.11) supports that service settings include opportunities to receive services in the 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. The state lacks quality assurance/monitoring activities to ensure this requirement is met.</p>	<p>Disallow service from being allowed 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>
<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>	<p>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.</p> <p>Community crisis providers have no capacity to control the participant’s residential setting. Private units in residential settings do not apply.</p>	<p>None.</p>	<p>Incorporate HCBS requirement into IDAPA 16.03.10.313.</p>

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

**Community Crisis Supports (Adult DD 1915(i)) continued**

Requirement	Support	Gap	Remediation
<p>7. An individual’s essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	<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>
<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>	<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>
<p>9. Individual choice regarding services and supports, and who provides them, is facilitated.</p>	<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>

## Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services

### Day Habilitation (A&D Waiver)

Requirement	Support	Gap	Remediation
<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>	<p>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>	<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>
<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>	<p>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>	<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>

<b>Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services</b>			
<b>Day Habilitation (A&amp;D Waiver)</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 supports that service settings include opportunities to engage in community life when services are provided in the home and community. However, this requirement is not supported specifically for Day Habilitation service settings.	The state lacks standards for integration for services provided in a congregate setting.  The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”  The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.	Incorporate HCBS requirement into IDAPA 16.03.10.  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.	This requirement is not supported specifically for Day Habilitation service settings. However, providers have no authority to control participant resources.	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”  The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.  The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.	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.	This requirement is not supported specifically for Day Habilitation service settings. However, providers have no authority to impose barriers to participants seeking to receive other services in the community.	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”  The state lacks quality assurance/monitoring activities to ensure that the service settings are integrated.  The state lacks sufficient service-specific regulatory support to enforce this requirement. IDAPA is silent.	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.

## Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services

### Day Habilitation (A&D Waiver)

Requirement	Support	Gap	Remediation
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and based on the individual's needs, preferences, and resources available for room and board (for residential settings).	Idaho rule (IDAPA 16.03.10.328.04) supports that services/settings are selected by the participant based on their needs and preferences.  Day Habilitation providers have no capacity to control the participant's residential setting. Private units in residential settings do not apply.	None.	Incorporate HCBS requirement into IDAPA 16.03.10.313.
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>Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services</b>			
<b>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 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 16.03.10.651.01, 16.03.10.651.01.d, 16.03.10.651.01.e, 16.03.10.653.04.e, 16.03.21.520, 16.03.21.900.03, 16.03.21.905.02) supports that service settings include opportunities to engage in community life when services are provided in the home and community. However, integration standards for center/congregate are not specified.	The state lacks standards for integration for services provided in a congregate setting.  The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”  The state lacks quality assurance/monitoring activities to ensure this requirement is met.	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.
4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.21.905.01.g) supports that the participant has the right to retain and control their personal possessions.	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”  The state lacks quality assurance/monitoring activities to ensure this requirement is met.	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.

<b>Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services</b>			
<b>Developmental Therapy (Adult DD 1915(i))</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 16.03.10.651.01.d, 16.03.10.653.04.e, 16.03.21.900.03) supports that service settings include opportunities to receive services in the community.	The state lacks standards for integration for services provided in a congregate setting.  The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”  The state lacks quality assurance/monitoring activities to ensure this requirement is met.	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.  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.

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

**Developmental Therapy (Adult DD 1915(i))**

Requirement	Support	Gap	Remediation
<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>	<p>Idaho rule (IDAPA16.03.10.653.04.e, 16.03.21.900.03, 16.03.21.915.08) supports that an individual’s initiative, autonomy and independence in making life choices is facilitated in the home and community. However, standards for choice and autonomy in a center/congregate setting are not specified.</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.</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>
<p>9. Individual choice regarding services and supports, and who provides them, is facilitated.</p>	<p>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.</p>	<p>None.</p>	<p>Idaho has strengthened its regulatory language in IDAPA 16.03.10.313 to ensure this requirement is met.</p>

## Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services

### Residential Habilitation – Supported Living (A&D and Adult DD Waiver)

Requirement	Support	Gap	Remediation
1. The setting is integrated in, and facilitates the individual’s full access to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.700, 16.04.17.011.30) supports that service settings are integrated and facilitate community access.  The state presumes the participant’s private home in which they reside meets the HCBS requirements.	The state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”	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>Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services</b>			
<b>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.

## Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services

### Supported Employment (A&D and Adult DD Waiver)

Requirement	Support	Gap	Remediation
1. The setting is integrated in, and facilitates the individual's full access to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Idaho rule (IDAPA 16.03.10.703.04) supports that service settings are integrated and facilitate community access.	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS."	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.

## Non-Residential Service Setting Gap Analysis: Adult Developmental Disabilities and Aged and Disabled Waiver Services

### Supported Employment (A&D and Adult DD Waiver) continued

Requirement	Support	Gap	Remediation
6. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and based on the individual's needs, preferences, and resources available for room and board (for residential settings).	Idaho rule (IDAPA 16.03.10.721.07, 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 July 1, 2016. To clarify for CMS and for the reader, regarding 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 quality assurance 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	Complete: 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."
Form Revision: Modify the current Certified Family Home Admission Agreement to provide protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law.	9/20/2016	11/17/2016	Complete: with collaboration from CMS, Licensing and Certification staff have updated the admission policies and agreement in November 2016. The updated admission policy and agreement accounts for discharge/eviction criteria and timeframes that are in accordance with the Idaho Landlord Tenant Law.
Process Revision: Make operational revisions to the existing processes for eviction and appeals in Certified Family Homes to be comparable to those provided under Idaho landlord tenant law.	9/20/2016	7/1/2018	Work has been initiated. A systemic process across Departmental divisions has been developed and implemented on July 1, 2016, to ensure CFH providers are compliant with the evictions and appeals under the Idaho Landlord Tenant Law. Further, effective July 1, 2018, Licensing and Certification will have rule support to assess CFH providers for their timeframes around discharge/eviction criteria.
Rule Revision: Change the Certified Family Home Admission Agreement requirements in IDAPA 16.03.19 to align with Idaho landlord tenant laws.	4/1/2017	Passage expected 4/30/2018 Effective 7/1/2018	Complete: Licensing and Certification began rule promulgation process to align their admission policy and agreement with the Idaho Landlord Tenant Law in April 2017. Licensing and Certification rules passed with the Idaho Legislature in January 2018 and will become effective July 1, 2028.

Remediation Task	Start Date	End Date	Status
Implementation: Implement the new Certified Family Home processes and use of the revised Admissions Agreement.	10/24/2016	7/1/2018	Complete: Licensing and Certification updated their Admission policy and Agreement in November 2016 to align with the Idaho Landlord Tenant Law and with the HCBS rules outlined in IDAPA 16.03.10. Licensing and Certification rules went into effect July 1, 2018, and afforded Licensing and Certification staff the ability to take enforcement actions.

\* It should be noted that Idaho follows a 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, documented received comments and modified rule language based on public comment. Information on upcoming rule changes was published on the Idaho HCBS webpage with details on how to comment. The Transition Plan was published for comment in October 2014, January 2015, and September 2015 and all identified rules were promulgated in the 2016 legislative session.

\*\*The requirement to align with Idaho landlord tenant law is already in place in Medicaid rule effective July 1, 2016. The Admission Agreement for Certified Family Homes was revised and implemented November 17, 2016.

## 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 determined many HCBS services are highly medical/clinical in nature, self-directed, for the purchase of goods/adaptations, provided by providers who have no capacity to influence setting qualities, or occur in settings which are analyzed elsewhere in the Transition Plan.

Therefore, for these services, a detailed analysis was not necessary. This includes the following services:

A&D Waiver	Idaho DD Waiver	Children’s DD/ Act Early Waiver	1915(i) State Plan
<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

CMS 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 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 received a site visit by Department staff who examined each site for all characteristics of an institution. If the state determined 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 Transition Plan has been revised as the state has modified its strategy for analysis of settings for characteristics of an institution. Versions 1- 5 of the Transition Plan contain all previous verbiage and can be found at the HCBS webpage.

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

### **Certified Family Homes**

In September of 2014, the 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. Licensing and Certification staff 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, three CFHs were identified as potentially having the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. An isolation addendum was incorporated into the site-specific assessment process described in *Section 3a* as a set of additional questions and corresponding evidence to evaluate institutional characteristics for these settings.

### **Residential Assisted Living Facilities**

In early summer of 2014, the 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. At the time, 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 they could only accurately assess each RALF for isolation if they visited that RALF recently.

In the prior version of the Transition Plan, Medicaid proposed that these RALFs be evaluated for characteristics of an institution. An isolation addendum was incorporated into the site-specific assessment process described in *Section 3a* as a set of additional questions and corresponding evidence to evaluate institutional characteristics for these RALFs.

In addition, Medicaid has since identified that four Idaho RALFs are attached to skilled nursing facilities. Evidence of HCBS compliance was gathered during the site-specific assessment for each of these RALFs and will be submitted to CMS for heightened scrutiny as outlined in *Section 2d*. Evidence for heightened scrutiny was compiled and included under *attachment 8*.

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

Idaho's non-residential HCB services 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 to assess DDA 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. Staff who routinely visit DDAs answered the two institutional 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 biennial 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 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 HCBS 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 for children moving into and residing in a residential care facility beginning May 1, 2016.

## 2d. Heightened Scrutiny Process

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

- A site visit to each setting by Medicaid staff to assess if the setting meets the characteristics of an institution.
- A review of documented procedures for how participants access the broader community.
- Barriers to prevent or deter people from entering or exiting. Idaho will recognize exceptions to barriers utilized for safety measures for a particular individual as identified in their person-centered service plan.
- Processes utilized to support social interactions with friends and family in and outside of the setting.

The review of settings with a negative or 'unknown' response to the questions assessing the characteristics of an institution was completed by December 31, 2017. Idaho has identified settings it believes can overcome the assumption of being institutional and will submit evidence to CMS demonstrating such. This evidence will include:

- Documented procedures for how individuals access the broader community.
- Logs used for exiting or entering the setting.
- Case notes on individual's activities.
- Calendar of activities sponsored outside of the setting.
- Documented procedures for visitors, phone calls, computer/technology usage, and privacy.

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

Idaho completed the Heightened Scrutiny process on four RALF settings. The four settings are attached to skilled nursing facilities, therefore need to overcome the presumption they are institutional. The following settings must undergo heightened scrutiny:

- Royal Plaza Retirement and Care Center, LLC/RCF
- Sawtooth Healthcare, Inc., DBA Discovery Care Center
- Sunbridge Healthcare Corporation DBA Meridian Care and Rehabilitation Center (Genesis)
- Sunbridge Healthcare Corporation DBA Sunny Ridge Rehabilitation and Retirement Center (Genesis)

Idaho assigned quality assurance/quality improvement (QA/QI) staff from the Bureau of Long-Term Care (BLTC) and the HCBS Coordinator to complete On-site assessments of these four settings. Additionally, each staff member was instructed to collect all evidence the setting used to prove compliance with HCBS rules. The evidence, which was reviewed during the on-site assessment, has been included in Attachment 8 for public review and comment.

## Section 3: Site-Specific Assessment, Remediation, Relocation, and Monitoring

The reader should note that much of this section of the Transition Plan has been revised as the state has modified its strategy for analysis of settings for characteristics of an institution. Versions 1- 5 of the Transition Plan contain all previous verbiage and can be found at: [www.HCBS.dhw.idaho.gov](http://www.HCBS.dhw.idaho.gov) .

### Overview

- *Section 3a* describes how Medicaid completed a site-specific assessment of provider owned and controlled residential and center-based HCBS providers. During those site visits each setting was assessed on all HCBS setting requirements and evidence of compliance was reviewed. This work began in June 2017 and concluded in January 2018.
- *Section 3b* outlines Medicaid's site-specific remediation process. Providers found non-compliant with HCBS setting requirements were referred to the appropriate program for remediation. Quality Assurance/Quality Improvement staff were available to offer technical assistance to each provider to ensure understanding and compliance.
- *Section 3c* describes how providers who were unable or unwilling to comply with the HCBS requirements were sanctioned. In addition, it describes how affected participants were given the opportunity to access HCBS services from another, compliant provider.
- *Section 3d* describes the process Medicaid will use to engage providers in ongoing monitoring once final approval of the Transition Plan has been granted by CMS. Medicaid's bureaus have updated quality assurance activities to ensure provider compliance with HCBS qualities identified in IDAPA rules. Details for ongoing monitoring can be found in *section 3d*.

Prior to the assessment start date, Medicaid engaged providers, stakeholders, and staff in a series of training covering HCBS rules, Provider Self-Assessment Tool, and the Provider Toolkit. Between April 29, 2016, and June 20, 2017, Idaho offered the following:

- Six Webinar trainings.
- Six teleconference trainings.
- Twenty-Two statewide in-person trainings.
- Ten internal staff trainings (On-Site Assessment Tool, data collection expectations, and assessment guidance).
- Five internal and external stakeholder trainings.

All provider owned and controlled residential and center-based HCBS settings in Idaho have been assessed for compliance with the HCBS setting qualities. While Idaho Medicaid presumes services delivered in community settings or in a participant's private residence meet HCBS setting quality requirements, an ongoing monitoring system will ensure Medicaid providers do not arbitrarily impose restrictions on setting qualities while delivering those services. All HCBS settings are subject to the ongoing monitoring activities described in *section 3d*.

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

Idaho 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 HCBS 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 would be developed for providers. The toolkit includes the following information: HCBS glossary of terms, the Provider Self-Assessment Tool, Participant rights documents, Rules and Guidance document including review criteria and best practice suggestions, Sample Policies and Procedures document, and a Provider Self-Assessment Example. The guidance was incorporated into all trainings for staff and providers. It was also incorporated into the setting assessment to be completed in 2017 and be part of ongoing monitoring of these settings.

Integration relies heavily on interaction with peers in the community. Guidance materials developed for providers defines "peers" as including individuals with and without disabilities.

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

The strategy and timeline for assessment included the following activities:

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

- Idaho completed a baseline assessment of HCBS settings between April and June of 2016.
- A data analyst from Medicaid selected a random sample of sites to take part in the baseline assessments. The sample size included more sites than required to have a statistically significant sample, as participation was voluntary.
- Staff contacted identified providers to ask if they would be willing to participate in the baseline assessment. If the provider agreed, a time was scheduled to complete the assessment over the phone.
- Providers were asked to identify over the phone what evidence they could provide to support their responses should they be selected for the official site-assessments scheduled to begin in June 2017.

- All baseline assessment results were tracked and a summary report of compliance vs. non-compliance was generated once the baseline work was completed. One-hundred eighty Medicaid providers volunteered to engage in the baseline assessment. Below is a summary of the findings:

<b>Baseline Assessment Results</b>			
Provider Type	Number of Providers Surveyed	Compliant	Non-Compliant
CFH	63	16 (25%)	47 (75%)
RALF	38	14 (37%)	24 (63%)
ADH	8	5 (63%)	3 (37%)
DDA	71	54 (76%)	17 (24%)
<b>Overall:</b>	<b>180</b>	<b>89 (49%)</b>	<b>91 (51%)</b>

- The information obtained from the baseline work was used to:
  - determine current levels of HCBS compliance in the provider community.
  - inform the development of 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.
  - identify additional materials needed for the provider toolkit.
  - provide targeted technical assistance to those providers who participated.
  - inform plans for the site-assessments scheduled to begin in 2017.

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

- All HCBS providers were given a provider self-assessment tool by August 1, 2016, and required to complete the self-assessment no later than December 31, 2016. This requirement is supported in Idaho rule.
- Training was offered to providers on how to complete the self-assessment and what best practices might look like.
- Providers were informed on-site assessments would be completed in 2017. During the assessment, providers would be expected to produce both a completed self-assessment and evidence to support each response.
- All providers were 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: June 1, 2017 – January 4, 2018**

Medicaid staff initiated on-site assessments of HCBS settings in June 2017. Site assessments were completed on all identified HCBS settings, except for CFHs providing services to relatives only. Based on guidance provided from CMS, Idaho presumed that these CFHs are compliant with HCBS regulations. These relative CFH providers will be included in ongoing monitoring of HCBS setting compliance, described in *Section 3d*. Staff assessed the following providers for HCBS setting qualities:

- Adult Day Health Centers - 8 settings
- Developmental Disability Agencies - 127 settings
- Certified Family Homes providing services to non-relative residents - 429 settings
- Residential Assisted Living Facilities - 237 settings

The HCBS Coordinator was responsible for overseeing the site-specific assessment process and tracking the outcomes. Site-specific assessments were completed in person by state staff. Providers were contacted in advance of the site-assessment visit and were asked to have available their completed Provider Self-Assessment Tool and the evidence they had to support each response in that self-assessment. Once on site, the assessment team utilized the On-Site Assessment Tool to evaluate compliance. The assessment tool aligns directly with the provider self-assessment.

During the visit, the assessor documented the provider’s responses and the evidence the provider offered to support the responses. The assessor completed 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 documented a determination of compliance or non-compliance for each regulation and noted the rationale for the determination.

### Results

The following information summarizes Idaho’s assessment results:

<b>Assessment Results</b>						
Provider Type	Settings Assessed	Compliant settings	CAP* Requested	Conditional Acceptance of CAP	Final Approval of CAP	Terminated
ADH	8	8	0	0	0	0
DDA	127	121	6	5	5	1
CFH	429	388	41	39	39	2
RALF	237	187	50	48	48	2
<b>Total:</b>	<b>801</b>	<b>704</b>	<b>97</b>	<b>93</b>	<b>90</b>	<b>5</b>

Note four (4) of the five (5) providers who terminated the provider agreement did so because they either chose not to offer HCBS, or their state license was revoked by the Division of Licensing and Certification. \* CAP = Corrective Action Plan

### 3b. Site Specific Remediation

To ensure provider compliance with HCBS rules, the state has provided extensive provider trainings that began in 2014 and continued through the end of 2016. The state developed a toolkit that providers can utilize to comply with the HCBS rules. In addition, technical assistance was offered to providers upon request or when a potential deficiency was identified. Below is a description of Idaho’s provider remediation process 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 on-site assessment or ongoing monitoring activities will undergo the following 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 forty-five (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.
- Once a provider receives conditional acceptance of their CAP, they will be required to submit documentation to the QA/QI staff, as identified within their CAP, validating their compliance. Providers have forty-five (45) days to submit their validating documentation.

The state has developed an HCBS-specific process with guidelines for enforcement of HCBS compliance. Idaho has rule support that permits the state to take specific enforcement actions related to a provider's Medicaid Provider Agreement for failure to demonstrate compliance with requests for Corrective Action.

The HCBS Coordinator was responsible to coordinate all remediation activities related to HCBS on-site assessments. The HCBS Coordinator, along with the QA/QI staff, were responsible to provide technical assistance to providers during the CAP process and enforcement actions as needed.

### **3c. Participant Relocation**

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 HCBS 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 decision-making authority(s), if applicable. The formal notification letter, sent when the provider's Medicaid Provider Agreement is terminated, will indicate 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 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 their Medicaid provider agreement will be terminated, and 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.

### **Timeline for Relocation of Participants**

All participants affected by provider terminations as a result of the on-site assessment process have been relocated to HCBS-compliant providers in accordance with the process described above.

### **3d. Ongoing Monitoring**

Implementation of ongoing quality assurance activities began in January 2017. Those activities include:

- Existing participant feedback mechanisms have been modified to include targeted questions about HCBS compliance in the participant's service setting. There are three 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) which is used to assess services provided to Adult DD waiver participants.
  - The Quality Survey, which is used to assess services provided to A&D waiver and State Plan Personal Care Services participants.
- Existing Provider Quality Review processes have been modified to include components specific to HCBS compliance.
- Existing complaint and critical incident tracking and resolution processes have been modified to include an HCBS setting quality category.
- Licensing and Certification staff will assess compliance with some of the HCBS requirements when completing their routine surveys of CFHs, DDAs, and RALFs. They will continue to cite on requirements that are included in their rules, and will notify the respective Bureau's Quality Assurance Manager if issues with other HCBS requirements are identified. The Bureau's Quality Assurance Manager will assign a Quality Assurance Specialist to investigate and document the compliance issue in the same manner as a complaint.

Ongoing issues or trends will be reported to the Oversight Committee, which is a subcommittee of the Medical Care Advisory Committee. The state will continue to leverage the Oversight Committee on an ongoing basis as needed to solicit stakeholder input on HCBS compliance activities.

The table below provides an overview of ongoing monitoring activities implemented by the state. Immediately following is a summary of how each responsible entity uses each data source to monitor HCBS compliance.

Data Source	Responsible Entity		
	Bureau of Developmental Disability Services	Bureau of Long Term Care	Division of Family and Community Services
Licensing and Certification	X	X	*
Participant Feedback Mechanisms	X	X	X
Provider Reviews	X	X	X
Complaints and Critical Incidents	X	X	X
Provider Enrollment	X	X	X
Service Plan Review	X	X	*
Other		X	

\*The Division of Family and Community Services receives information from these sources via the Complaint and Critical Incident process

## Bureau of Developmental Disability Services (BDDS)

### Licensing and Certification

- Licensing and Certification surveys DDAs and CFHs.
- Licensing and Certification reviews the following HCBS regulations: integration and access, selection of setting, participant rights, autonomy and independence, choice, written agreement, privacy, schedules and activities, access to food, visitors, and physical accessibility.
- Surveys are completed every six months to three years, depending on provider type and status.

### Participant Feedback Mechanisms

- BDDS QA/QI staff conduct an Adult Services Outcome Review (ASOR) yearly with a sample of program participants to assess the delivery of adult developmental disabilities services. To conduct an ASOR, QA/QI staff complete a file record review and interview the participant and their decision-making authority. Interviews may also be completed with plan developers and other paid or non-paid supports.
- If compliance issues are identified, BDDS QA/QI staff proceed with: education, technical assistance, or issue a Request for Corrective Action.

- The ASOR Templates and Instruction Manual for the 2018/2019 waiver year will be revised to incorporate HCBS requirements.

### **Provider Reviews**

- BDDS completes provider agency reviews on the following provider types: Adult Day Health, DDAs, Chore services, Home Delivered Meals, Durable Medical Equipment providers, Supported Living, Respite Care, Non-Medical Transportation, Supported Employment, Nursing Services, Behavioral Consultation/Crisis Management, and Financial Management Services.
- Provider reviews are completed every six months to three years, depending on provider type and status.
- Provider review and instruction templates have been revised to incorporate HCBS requirements. Provider reviews may include a review of:
  - Policies and procedures.
  - Service delivery documentation, such as progress notes, service plans, and implementation plans.
  - Staff records, such as training records, criminal history background checks, and performance reviews.

### **Complaints and Critical Incidents**

- Complaints and critical incidents are received from a variety of sources including: participant/guardian/ service provider input, Licensing and Certification referrals, external stakeholder referrals, health and safety reports, program integrity, or law enforcement.
- The complaint and critical incident database includes an indicator for potential violations of HCBS setting quality requirements.
- BDDS will follow established internal review and remediation processes regarding HCBS violations.

### **Provider Enrollment**

- Prior to approval of new enrollment applications, BDDS evaluates HCBS compliance for the following provider types: Adult Day Health, CFHs, DDAs, Supported Living, Supported Employment, Nursing Services, Respite Services, and Behavioral Consultation/Crisis Management.
- Documents reviewed prior to approval as a Medicaid HCBS provider include:
  - Provider application
  - Template notices, including privacy, confidentiality, termination, etc.
  - Template intake packets
  - Policies and procedures

### **Service Plan Review**

- BDDS Care Managers review all service plans prior to authorization and annually thereafter to ensure that **only** HCBS-compliant settings are selected for identified services.
- The person-centered service plan template has been modified to include all HCBS person-centered planning requirements. BDDS Care Managers ensure that all components are completed accurately.

- BDDS Care Managers ensure all services and settings are chosen by the participant or their decision-making authority as evidenced by their signature on the person-centered service plan. Service providers also sign the plan acknowledging they will deliver services according to the authorized plan of service and consistent with HCBS requirements.
- BDDS has an established process for reviewing requests for exceptions to provider owned or controlled residential setting qualities.

## **Bureau of Long Term Care**

### **Licensing and Certification**

- Licensing and Certification surveys CFHs and RALFs.
- Licensing and Certification reviews the following HCBS regulations: integration and access, selection of setting, participant rights, autonomy and independence, choice, written agreement, privacy, schedules and activities, access to food, visitors, and physical accessibility.
- Surveys are completed every six months to three years, depending on provider type and status.

### **Participant Feedback Mechanisms**

- A Quality Survey is conducted as part of the initial and annual redetermination assessment process for all participants served under BLTC Programs. The Quality Survey includes questions specific to HCBS setting qualities and service delivery. Questions are asked of the participant or his or her decision-making authority.
- If compliance issues are identified, BLTC QA/QI are notified via an automated system and proceed with: education, technical assistance, or issue a Request for Corrective Action.

### **Provider Reviews**

- The BLTC completes provider agency reviews on the following provider types: Adult Day Health, Home-Delivered Meals, Personal Emergency Response Systems, and Personal Assistance Agencies.
- BLTC provider reviews are completed every six months to two years, depending on provider type and status.
- The BLTC Provider Review SharePoint has been revised to incorporate HCBS requirements. Provider reviews may include a review of:
  - Policies and procedures.
  - Service delivery documentation, such as progress notes, service plans, and implementation plans.
  - Staff records, such as training records, criminal history background checks, and performance reviews.

## **Complaints and Critical Incidents**

- Complaints and critical incidents are received from a variety of sources including: participant/ guardian/ service provider input, Licensing and Certification referrals, external stakeholder referrals, health and safety reports, program integrity, or law enforcement.
- The complaint and critical incident database includes an indicator for potential violations of HCBS setting quality requirements.
- BLTC will follow established internal review and remediation processes regarding HCBS violations.

## **Provider Enrollment**

- Prior to approval of new enrollment applications, BLTC evaluates HCBS compliance for the following provider types: Adult Day Health, Personal Assistance Agencies, and RALFs.
- Documents reviewed prior to approval as a Medicaid HCBS provider include:
  - Provider application
  - Template notices, including privacy, confidentiality, termination, etc.
  - Template intake packets
  - Policies and procedures

## **Service Plan Review**

- The BLTC support staff validate provider compliance status prior to keying authorizations for services identified on the service plan.
- The Assessment and Certification Tool, which generates the initial participant service plan, has been modified to include all HCBS person-centered planning requirements. BLTC Nurse Managers ensure that all components are completed accurately.
- The BLTC Nurse Reviewers ensure all services and settings are chosen by the participant or their decision-making authority as evidenced by their signature on the Service and Provider Choice Form and individual service plan. Service providers also sign the plan acknowledging they will deliver services according to the authorized plan of service and consistent with HCBS requirements.
- The BLTC has an established process for reviewing requests for exceptions to provider owned or controlled residential setting qualities.

## **Other**

- The BLTC Nurse Reviewers conduct annual redetermination assessments face-to-face with A&D waiver and PCS participants. Staff have been trained to identify potential violations of HCBS setting quality requirements while in the participant's residence and document via the Assessment and Certification Tool. Reports of potential violations are routed to BLTC QA/QI staff for investigation and follow-up.

## **Division of Family and Community Services (FACS)**

### **Licensing and Certification**

- Licensing and Certification surveys DDAs.
- Licensing and Certification reviews the following HCBS regulations: integration and access, selection of setting, participant rights, autonomy and independence and choice.
- Surveys are completed every six months to three years, depending on provider type and status.

### **Participant Feedback Mechanisms**

- The Division of Family and Community Services QA/QI staff conduct Children's Services Outcome Reviews (CSOR) yearly with a sample of program participants to assess the delivery of children's developmental disabilities services. To conduct a CSOR, QA/QI staff complete a file record review, interview the parent/guardian/decision-making authority and participant (if possible), and complete an observation of the child while they are receiving services.
- If compliance issues are identified, FACS QA/QI staff proceed with: education, technical assistance, or issue a Request for Corrective Action.
- The CSOR templates have been revised to incorporate HCBS requirements.

### **Provider Reviews**

- The Division of Family and Community Services completes HCBS provider agency reviews for DDAs that exclusively serve children.
- Home and Community-Based provider reviews are completed every six months to three years, depending on provider type and status.
- Provider review and instruction templates have been revised to incorporate HCBS requirements. HCBS provider reviews may include a review of:
  - Policies and procedures.
  - Service delivery documentation, such as progress notes, service plans, and implementation plans.

### **Complaints and Critical Incidents**

- Complaints and critical incidents are received from a variety of sources including: participant/guardian/ service provider input, Licensing and Certification referrals, external stakeholder referrals, health and safety reports, program integrity, or law enforcement.
- The complaint and critical incident database includes an indicator for potential violations of HCBS setting quality requirements.
- The Division of Family and Community Services will follow established internal review and remediation processes regarding HCBS violations.

### **Provider Enrollment**

- Prior to approval of new enrollment applications, FACS will evaluate HCBS compliance for the following provider types: DDAs providing services to children, and Independent Therapeutic Consultation and Respite.
- Documents reviewed prior to approval as a Medicaid HCBS provider include:
  - Provider application
  - Policies and procedures
  - Acknowledgement of HCBS requirements

### Service Plan Review

- The FACS Case Managers develop all service plans and ensure that **only** HCBS-compliant settings are selected for identified services.
- The person-centered service plan template has been modified to include all HCBS person-centered planning requirements. The FACS Case Managers ensure that all components are completed accurately.
- The FACS Case Managers ensure all services and settings are chosen by the participant or their decision-making authority as evidenced by their signature on the person-centered service plan. Service providers also sign the plan acknowledging they will deliver services according to the authorized plan of service and consistent with HCBS requirements.
- The FACS Case Managers have been trained on all HCBS requirements. If a potential HCBS violation is identified they will refer the provider to the Complaint and Critical Incident process. QA/QI staff will follow up on any referrals as needed.

## Section 4: Major Milestones for Outstanding Work

Major project milestones and their completion dates are reflected below.

### 4a. Systemic Assessment

The systemic assessment was completed on March 31, 2016. Results are included in *Section 1* of this Transition Plan.

### 4b. Systemic Remediation

Tasks	Deliverables	Start Date	End Date	Status
<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	1/27/2015	Passage 4/30/2016 effective 7/1/2016	Complete rules effective 7/1/2016
Renewal of Children's 1915(i) to incorporate new federal HCBS regulations.	State plan amendment documents to be submitted to CMS	3/31/2016	6/30/2016	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	7/01/2016	9/30/2016	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	7/01/2016	9/30/2016	Complete
<u>Waiver Amendments Adult DD</u>	Waiver documents to be	5/31/2016	6/30/2016	Complete

Tasks	Deliverables	Start Date	End Date	Status
Amendment to the Adult DD Waiver to support new HCBS regulations.	submitted to CMS			
<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	5/31/2016	6/30/2016	Complete
<u>Waiver Amendments Children's DD</u> Amendment to the Children's DD Waiver to support new HCBS regulations.	Waiver documents to be submitted to CMS	5/31/2016	6/30/2016	Complete
<u>Waiver Amendments Act Early</u> Amendment to the Act Early Waiver to support new HCBS regulations.	Waiver documents to be submitted to CMS	5/31/2016	6/30/2016	Complete
<u>Form and process revisions</u> in the Certified Family Home Program to provide protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law.	Documents available upon request	9/20/2016	10/21/2016	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	7/5/2016	Approval 4/30/2017, effective 7/1/2017	Complete
<b>Milestone: Systemic Remediation complete 7/1/2017</b>				

#### 4c. Analysis of Settings for Characteristics of an Institution

Tasks	Evidence	Start Date	End Date	Status
Develop a survey for staff to use to examine if a setting has any of the characteristics of an institution, including isolation.	Survey	4/1/2016	4/29/2016	Complete
Staff who regularly visit HCBS sites complete the survey based on their knowledge of each physical location.	Completed surveys	5/2/2016	5/20/2016	Complete

Tasks	Evidence	Start Date	End Date	Status
Analyze the survey results. Identification of settings that have characteristics of an institution, including isolation.	Survey results	5/23/2016	6/3/2016	Complete
Hire and train staff to complete on-site assessments of RALFS to determine if they have the characteristics of an institution.	No deliverable	10/3/2016	12/30/2016	*No longer applicable
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	1/2/2017	6/30/2017	*No longer applicable
Complete site-specific visits and assessments for the CFHs identified as potentially isolating.	Information can be included in quarterly reports to CMS upon request	1/2/2017	6/30/2017	*No longer applicable
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.	Assessment outcomes will be published in V6 of the STP**, 6/1/2018 to 6/30/2018	1/2/2017	9/15/2017	Complete
Provider remediation prior to submission of evidence to CMS for heightened Scrutiny.	Assessment outcomes and heightened scrutiny documents will be published in V6 of the STP 6/1/2018-6/30/2018	6/1/2017	1/4/2018	Complete
Submit requests for heightened scrutiny to CMS for settings believed by Medicaid to be HCBS compliant.	Requests submitted to CMS	7/1/2017	7/31/2018	Complete
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	1/2/2017	3/17/2019	In Process
<b>Milestone: Analysis of Settings for Characteristics of an Institution complete 7/31/2018</b>				

\* Sites that were identified as potentially having characteristics of an institution were incorporated into the overall on-site assessment process. They were not evaluated separately.

\*\* STP = Statewide Transition Plan.

#### 4d. Site-Specific Assessment

Tasks	Evidence	Start Date	End Date	Status
Time for providers to come into compliance after Idaho Code to support HCBS compliance goes into effect July 1, 2017.	No deliverable	7/1/2016	12/31/2016	Complete
On-site assessment of all provider owned and controlled residential and center-based setting types for compliance with the HCBS setting requirements.*	STP**	1/4/2017	1/4/2018	Complete
<b>Milestone: Site-specific assessment complete 1/4/2018</b>				

\*The prior STP indicated the state would complete on-site assessments of a statistically valid sample. The state completed on-site assessments for all HCBS settings.

\*\*STP = Statewide Transition Plan

#### 4e. Site-Specific Remediation and Participant Relocation

Tasks	Evidence	Start Date	End Date	Status
<b>1. Planning</b>				
<ul style="list-style-type: none"> <li>Site-specific plan for provider remediation finalized.</li> </ul>	Provider Remediation Plan published for public comment	6/3/2016	7/4/2016	Complete
<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	Complete
<b>2. Provider and Participant Trainings</b>				
Stakeholder WebEx Series: <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	4/4/2016	5/16/2016	Complete
<ul style="list-style-type: none"> <li>Training on use of the provider toolkit for residential and non-residential providers (twenty-four presentations).</li> </ul>	WebEx presentation In-person training	7/26/2016	10/28/2016	Complete
<ul style="list-style-type: none"> <li>Training on how to complete the Provider Self-Assessment (twenty-four presentations).</li> </ul>	WebEx presentation	8/9/2016	10/28/2016	Complete
<ul style="list-style-type: none"> <li>Final Questions (two presentations).</li> </ul>	Documentation of phone conference	9/8/2016	10/4/2016	Complete
<b>3. Training Internal Staff to Prepare for Assessment.</b> Staff doing on site assessments in 2017 from BDDS, BLTC, and FACS:	Training outline and/or meeting materials	5/11/2016	02/24/2017	Complete

Tasks	Evidence	Start Date	End Date	Status
Understanding the assessment process, timeline, and the provider remediation process- Review detailed business processes for assessment, tracking, and reporting.				
4. Training temporary staff to prepare for the assessment and understanding the assessment process, timeline, and the provider remediation process. Review detailed business processes for assessment, tracking, and reporting.	Training outline and/or meeting materials	6/12/2017	6/16/2017	Complete
5. Corrective Action Plan Process utilized to address issues of non-compliance.	Department Corrective Action Plan Process	1/2/2017	2/24/2017	Complete
6. Participant relocation activities to support transitioning of participants to compliant HCBS settings. The participant relocation plan described in <i>Section 3c</i> will be utilized in this process.	Participant case file documentation	1/2/2017	12/9/2017	Complete
<b>Milestone: Site-Specific Remediation and Participant Relocation Complete 3/19/2019</b>				

#### 4f. Statewide Transition Plan

Tasks	Evidence	Start Date	End Date	Status
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 6/4/2016 to 7/4/2016 Submitted to CMS 7/29/2016	6/4/2016	7/29/2016	Complete
Submission of STP to CMS: includes publication for public comment, comment analysis, and STP changes as a result of comments.	STP v5 Submitted to CMS 7/29/2016	7/28/2016	9/20/2016	Complete
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 v6 to be published from 6/1/2018 to 6/30/2018 and to be submitted to CMS – 7/31/2018	4/30/2018	7/31/2018	In Process
<b>Milestone: Statewide Transition Plan Submitted to CMS for Final Approval 7/31/2018</b>				

#### 4g. Other

Tasks	Evidence	Start Date	End Date	Status
Toolkit development	Toolkit	3/7/2016	7/15/2016	Complete
HCBS Oversight Committee established and operational. This Committee will meet quarterly and oversee all assessment and on-going monitoring activities.	Oversight Committee charter and membership list	1/31/2017	3/15/2019	Complete
<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. 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. For the state to collaborate with participants on the new HCBS requirements, it offered information to several advocacy groups including the Idaho Self-Advocate Leadership Network and the Idaho Council on Developmental Disabilities. The state also requested that service coordinators and children’s case managers distribute information to participants about how to access the HCBS webpage and to advise them that the draft Transition Plan would be available for public comment prior to each publication.
5. Stakeholder meetings have been ongoing. To launch this effort a series of six WebEx meeting were held during the months of July and August 2014, and January 2015. They were designed to educate providers about the new regulations, to share information about Medicaid’s plans and assessment outcomes, and to solicit feedback from providers, associations, consumer advocacy organizations, participants, and other potentially interested stakeholders.
6. Stakeholders have access to all WebEx presentations given by the state on the state’s webpage.

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 began in spring 2016 and continue as needed through full compliance in March 2019. They include in-person meetings, conference calls, and WebEx meetings.
11. The regulation requires 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 from 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, on June 3, 2016, through July 4, 2016, and finally on June 1, 2018, through June 30, 2018. 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 webpage 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 webpage on their webpage if appropriate.

- Notices announcing the comment periods were also published in five Idaho newspapers prior to each comment period:
  - i. The Post Register
  - ii. The Idaho Statesman
  - iii. The Idaho State Journal
  - iv. The Idaho Press Tribune
  - v. The Coeur d'Alene Press

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 Statewide 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, (v4) was submitted to CMS on July 29, 2016, (v5) was submitted to CMS on September 20, 2016, and (v6) was submitted to CMS on July 31, 2018. 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 each comment period noticing process have been posted on the Idaho HCBS webpage 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 using 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 use 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 completed this work in May of 2015 and it was included in the following 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 Frequently Asked Questions document as a result of those questions to help providers and others understand what the rules are, why they are important, and how the state plans to assist providers in coming into compliance. The Frequently Asked Questions document was posted to the HCBS webpage.
- **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's 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 can 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 are 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 can 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 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: Public Comments to the Idaho HCBS Setting Transition Plan Posted in July 2018

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

**Attachment 7:** Idaho Response to CMS Feedback on Areas Where Improvement is Needed in Order to Reviewed Final Approval of the Statewide Transition Plan

**Attachment 8:** Task Details

**Attachment 9:** Heightened Scrutiny

**Attachment 10:** Index of Changes