Texas Statewide Settings Transition Plan

Rule Overview

The Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community-based settings, effective March 17, 2014. Under 42 CFR §441.301, states must meet new requirements for home and community-based services and supports. The new rule defines requirements for the person-centered planning process; person-centered service plan; review of the person-centered service plan; qualities for home and community-based settings; assurances of compliance with the requirements; and transition plans to achieve compliance with the requirements. The rule also identifies settings that are not home and community-based.

Each state that operates a waiver under 1915(c) or a State Plan Amendment (SPA) under 1915(i) of the Social Security Act that was in effect on or before March 17, 2014, is required to file a Statewide Transition Plan, hereinafter referred to as the Statewide Settings Transition Plan. The Statewide Settings Transition Plan must be filed within 120 days of the first waiver renewal or amendment that is submitted to CMS after the effective date of the rule (March 17, 2014), but not later than March 17, 2015. The Statewide Settings Transition Plan must either provide assurances of compliance with 42 CFR §441.301 or set forth the actions that the State will take to bring each 1915(c) Home and Community-Based Service (HCBS) waiver and 1915(i) State Plan Amendment into compliance, and detail how the State will continue to operate all 1915(c) HCBS waivers and 1915(i) SPAs in accordance with the new requirements.

Texas Waivers and 1915(i) State Plan Amendment Overview
The State administers the following programs:

- Community Living Assistance and Support Services (CLASS) provides home and community-based services and supports to an eligible individual as an alternative to an intermediate care facility for individuals with intellectual disabilities. CLASS program services are intended to, as a whole, enhance the individual's integration into the community, maintain or improve the individual's independent functioning, and prevent the individual's admission into an institution. The waiver serves individuals with related conditions living in their own home or their family's home. The waiver allows individuals to receive services in a licensed foster home; however, only two individuals are currently receiving services in that type of setting.
- Deaf Blind with Multiple Disabilities (DBMD) provides home and community-based services to individuals with deaf-blindness or a condition that will result in deaf-blindness as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients may live in their own home, their family's home or in a small (4-6 bed) assisted living facility.
- Home and Community-based Services (HCS) provides home and community-based services to individuals with an intellectual disability as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients can live in their own home, their family's home, in foster/ companion care settings, or in residences with no more than three others

who receive similar services. HCS rules require providers to justify any restriction of rights and support the principles set forth in the new HCBS regulations.

- Medically Dependent Children Program (MDCP) provides services to support families caring for children who are medically dependent as an alternative to institutional care in Medicaid-certified nursing facilities. Services are provided in the individual's home or their family's home.
- Texas Home Living (TxHmL) provides essential services and supports for people with intellectual disabilities as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients must live in their own home or their family's home.
- Youth Empowerment Services (YES) waiver provides home and community-based services to children and youth ages 3-18 with serious emotional disturbance who reside in a non-institutional setting with the individual's legally authorized representative (LAR) or in the youth's own home, if legally emancipated.
- Texas Healthcare Transformation Quality Improvement Program (THTQIP) 1115 Demonstration Waiver provides home and community-based services under the STAR+PLUS program as an alternative to institutional care in Medicaid-certified nursing facilities. In accordance with recent CMS guidance regarding the 1115 STAR+PLUS HCBS Program, the State will address the application of the HCBS regulation to all HCBS services provided through the Demonstration waiver in an amendment to the statewide settings transition plan. See additional information under Community-Based Alternatives below.
- Home and Community-Based Services - Adult Mental Health Program ((HCBS-AMH) 1915(i) SPA) is intended to provide home and community-based services to adults with extended tenure in state mental health facilities in lieu of them remaining as long term residents of those facilities. Pending CMS approval, the HCBS-AMH program will provide an array of services appropriate to each individual's needs, to enable these individuals to live and experience successful tenure in their community. The State submitted the SPA on July 22, 2014. Accordingly, the submission of a transition plan does not apply to this program.
- Community Based Alternatives (CBA) provided services to individuals who met medical necessity level of care for nursing facilities. Effective September 1, 2014, the participants in the CBA program were moved into the THTQIP 1115 demonstration waiver. As noted above, in accordance with recent CMS guidance regarding the 1115 STAR+PLUS HCBS Program, the State will address the application of the HCBS regulation to all HCBS services provided through the Demonstration waiver in an amendment to the statewide settings transition plan. HCBS setting requirements will be addressed in the receiving THTQIP 1115 demonstration waiver in accordance with the guidance received and the plan to address HCBS setting requirements within the 1115 demonstration waiver will be subject to the 30-day public comment requirement outlined in the HCBS final rule (42 CFR 441.301).

Statewide Settings Transition Plan: The Statewide Settings Transition Plan is composed of the following three main components: (1) Assessment Process, (2) Remedial Strategy, and (3) Public Input. The Statewide Settings Transition Plan includes a timeframe and milestones for State actions, such as the various assessment and remedial actions.

Assessment Process:

The Assessment process may involve a (1) systemic (internal) review, (2) site specific assessments, (3) provider assessments and (4) identification of any settings presumed not to be home and community-based.

Systemic review: The State first determines its current level of compliance with the settings requirements. The State assesses the extent to which its rules, regulations, standards, policies, licensing requirements, and other provider requirements ensure settings comport with the HCBS settings requirements. In addition, the State assesses and describes the State's oversight process to ensure continuous compliance. The State may also assess individual settings/types of settings to further document compliance. Upon conducting the compliance assessment, if the State determines that existing standards meet the federal settings requirements and the State's oversight process is adequate to ensure ongoing compliance, the State will describe the process that it used for conducting the compliance assessment and the outcomes of that assessment. However, if the State determines that its standards may not meet the federal settings requirements, the State will include the following in its Statewide Settings Transition Plan: (1) remedial action(s) to come into compliance, such as proposing new state regulations or revising existing ones, revising provider requirements, or conducting statewide provider training on the new state standards; (2) a timeframe for completing these actions; and (3) an estimate of the number of settings that likely do not meet the federal settings requirements.

Site specific assessments: States may conduct specific site evaluations through standard processes, such as licensing reviews, provider qualifications reviews, or support coordination visit reports. States may also choose to engage individuals receiving services and representatives of consumer advocacy entities in the assessment process. Evaluations may be conducted by entities such as state personnel, case managers that are not associated with the operating agency, licensing entities, managed care organizations, individuals receiving services, and/or representatives of consumer advocacy entities such as long-term care ombudsman programs and/or protections and advocacy systems. States may perform on-site assessments of a statistically significant sample of settings.

Provider assessments: The State may administer surveys of providers and include a validity check against self-evaluations.

Settings presumed not to be home and community-based: Where the State bases its assessment on state standards, the State will provide its best estimate of the number of settings that (1) fully align with the federal requirements, (2) do not comply with the federal requirements and will require modifications, (3) cannot meet the federal requirements and require removal from the program and/or relocation of the individuals, and (4) are presumptively non-home and community-based but for which the State will provide evidence to show that those settings do not have the characteristics of an institution and do have the qualities of home and community-based settings.

State Activity
First Phase of Assessment [March 2014-September 2014] (System/Internal Review):

In the first phase of the assessment process, Texas conducted a systemic/internal review of current waiver program rules and policies identifying areas that were in compliance with the new regulation, non-compliant, or silent. In addition, the State reviewed oversight processes to determine if revisions were needed to ensure ongoing compliance with new HCBS rules. The results of the systemic/internal review of rules and policies yielded an assessment document for the 1915(c) waivers operated by the Texas Department of Aging & Disability Services (DADS) and a document by the Texas Department of State Health Services (DSHS) for the YES program, outlining areas of compliance and non-compliance across all of the waiver programs. The documents indicated whether the rules and policies were silent, non-compliant or partially compliant. The assessment documents are posted, respectively, on DADS and DSHS websites allowing ongoing input on the assessment process. The Texas Health & Human Services Commission (HHSC) website links to the DADS and DSHS websites to support access to the assessment documents.

In July and August 2014 the State gave public notice for preliminary settings transition plans for CBA, CLASS, HCS, MDCP, and YES. Comments received were considered for incorporation into the assessment. Some suggestions were already underway, for example, the State was already in the process of adding supported employment and employment assistance to the waivers.

In addition to the systemic/internal review, the State sought additional public input on the waiver specific preliminary settings transition plans, for all of the 1915(c) waivers (CBA, CLASS, HCS, MDCP, and YES). For example, the State held an open meeting for stakeholders and the general public, on October 13, 2014. The meeting was also webcast to allow for greater participation across the State. The State accepted public testimony on waiver specific preliminary settings transition plans and additional recommendations for improving the assessment process for all of the 1915(c) waivers, and the 1115 demonstration waiver.

Second Phase of Assessment [September 2014-December 2015] (External Review):

Public input received during the first phase of the assessment indicated the need for an external assessment phase. As a result, additional external assessment activities were identified to include the following. The State may conduct additional assessments as deemed necessary:

- **Provider self-assessment surveys:** In order to validate the results of the first assessment phase, DADS is releasing a provider self-assessment survey to a representative sample of providers. The survey will be based on the exploratory questions provided by CMS with input from external stakeholders. The provider self-assessment survey will be developed in conjunction with providers, provider associations and advocacy organizations to ensure a comprehensive approach. Providers who are not a part of the sample can still obtain and complete a self-assessment survey on the agency websites and provide data that will be considered as the State moves forward. Based on the results of the survey, ongoing remediation strategies and the assessment document will be updated. DSHS will also develop similar assessments to be completed by YES providers.

- **Participant surveys:** In order to validate the provider self-assessment surveys, DADS is releasing a participant survey to a representative sample of individuals receiving services. The survey will be based on the questions asked in the provider self-assessment. Participants who are not a part of the sample can still obtain and complete a participant survey on the agency websites and provide data that will be considered as the State moves forward. Based on the results of the survey, ongoing remediation strategies and the DADS assessment document will be updated.
- **Site specific assessments:** DBMD and CLASS residential providers are small in number and state resources provide for on-site visits of DBMD providers offering assisted living residential services and CLASS providers offering support family services to validate provider self-assessment results. DSHS already conducts at least annual site reviews of all providers and reviews 100% of charts. DSHS plans to conduct an additional assessment specifically to assess settings.
- **Stakeholder meetings:** The State is developing a plan for holding meetings around the state to allow providers, advocates, individuals receiving services, legally authorized representatives and other interested parties the opportunity to comment on all 1915(c) waiver programs and any concerns regarding compliance with the new regulations.
- **National Core Indicators (NCI) Data:** The State is in the process of analyzing NCI data and will consider using it in the assessment process.

Texas does not have any settings in the current 1915(c) Medicaid waivers that are presumed not to be community-based settings according to the regulations. The only possible exception may be day habilitation sites.

Third Phase of Assessment June 2015-May 2016

Texas will send provider self-assessment surveys to a representative sample of non-residential service providers the state identifies based on the internal assessment, public input, and additional CMS guidance, for example, day habilitation and pre-vocational service providers. Provider self-assessments will be verified by a representative sample of participant surveys. Day habilitation is not a service offered in the MDCP waiver.

Remedial Strategy:

The Remedial Strategy describes the actions the State proposes to assure initial and on-going compliance with the HCBS settings requirements, including timelines, milestones, and monitoring processes. State level remedial actions may include new requirements promulgated in statute, licensing standards or provider qualifications; revised service definitions and standards; revised training requirements or programs; or plans to relocate individuals to settings that are compliant with the regulations. Provider level remediation actions might include changes to the facility or program operation to assure that the Medicaid beneficiary has greater control over critical activities like access to meals, engagement with friends and family, choice of roommate, or access to activities of his/her choosing in the larger community, including the opportunity to seek and maintain competitive employment.

If the State determines the need to submit evidence to CMS for the application of heightened scrutiny for settings that are presumed not to be home and community-based, the Statewide Settings Transition Plan will include information that demonstrates that the setting does not have the characteristics of an institution and meets the HCB settings requirements. The State does not anticipate encountering this situation, but should it occur, the State will update the Statewide Settings Transition Plan and timeline accordingly.

If relocation of beneficiaries is required as part of the remediation strategy, the Statewide Settings Transition Plan will assure that the State provides reasonable notice and due process to those individuals; addresses the timeline for relocation; provides the number of beneficiaries impacted; and provides a description of the State's process to ensure that beneficiaries, through the person-centered planning process, are given the opportunity, information, and supports to make an informed choice of alternate setting that aligns, or will align with, the requirements and that critical services or supports are in place in advance of the individual's transition. The State does not anticipate encountering this situation, but should it occur, the State will update the Statewide Settings Transition Plan and timeline accordingly.

State Activity

Texas has identified a number of remediation strategies to address issues of potential non-compliance:

- **Rule and policy revisions:** State rule revisions require extensive input from stakeholders including providers, advocates, individuals receiving services, legally authorized representatives and other interested parties. Stakeholders are allowed two opportunities to review draft rule language and provide comments prior to rules becoming effective. The first opportunity is through email announcing rule drafts are available for public comment on agency websites. Based on written comments, stakeholders may be contacted by agency staff for additional dialogue regarding proposed rule language. The second opportunity for input is through the formal 30-day public comment process outlined in statute. Policy manual revisions are also shared externally and stakeholders are asked to provide comments on drafts of the policy before it becomes effective.
- **Revisions to processes used for provider oversight:** All waiver programs have oversight processes administered by regulatory (Waiver, Survey and Certification) or contract monitoring staff. Applicable tools will be revised to reflect changes in rule and policy to ensure ongoing provider assessment will include compliance with HCBS regulations to the greatest extent possible. Written guidance concerning rights and responsibilities will be revised to ensure individuals receiving services understand their rights and know how to file a complaint with the appropriate state agency if there are restrictions being imposed on rights without adequate discussion and documentation through the person centered planning process.
- **Provider education:** Providers will have multiple opportunities to learn about the new regulations and understand rule and policy changes. The State will offer webinars as a main source for provider education in addition to revising new provider orientation curriculum. DSHS conducts bi-weekly conference calls with providers.

Texas does not have any settings in the current 1915(c) Medicaid waivers that are presumed not to be community-based settings according to the regulations. The only possible exception may be day habilitation sites. However, if the State determines the need to submit evidence to CMS for the application of heightened scrutiny for settings that are presumed not to be home and community-

based, the Statewide Settings Transition Plan will be amended to include information that demonstrates that the setting does not have the characteristics of an institution and meets the HCB settings requirements.

The State does not anticipate that relocation of beneficiaries will be required as part of the remediation strategy, however, if it is, then the State will provide reasonable notice and due process to those individuals, and ensure that beneficiaries, through the person-centered planning process, are given the opportunity, information, and supports to make an informed choice of alternate setting that aligns, or will align with, the requirements and that critical services or supports are in place in advance of the individual's transition and the Statewide Transition Plan will be amended if necessary to provide additional information.

Public Input and Notice:

Prior to filing with CMS, the State must seek input from the public for the proposed Statewide Settings Transition Plan, preferably from a wide range of stakeholders representing consumers, providers, advocates, families and others.

The public input process requires the State to provide at least a 30-day public notice and comment period regarding the Statewide Settings Transition Plan that the State intends to submit to CMS for review and consideration. The State must provide a minimum of two statements of public notice and public input procedures. The State must ensure that the Statewide Settings Transition Plan is available to the public for public comment. The State must consider and modify the Statewide Settings Transition Plan, as the State deems appropriate, to account for public comment. Upon submission of the Statewide Settings Transition Plan to CMS, the State must include evidence of compliance with the public notice requirements and a summary of the comments received during the public notice period, why comments were not adopted, and any modifications to the Statewide Settings Transition Plan based upon those comments.

The process for submitting public comment must be convenient and accessible. The Statewide Settings Transition Plan must be posted on the State's website and include a website address for comments. In addition, the State must have at least one additional option for public input, such as a public forum. The Statewide Settings Transition Plan must include a description of the public input process.

The State intends to reach out throughout the transition to State staff, providers, advocates, and individuals receiving services and their families. Through various venues, the State plans to educate providers about their responsibilities, help individuals understand their rights under the new HCBS requirements, and solicit input.

Based on public input in all phases of the transition process, HHSC, DADS, and DSHS are committed to using feedback to guide remediation and assessment strategies until the transition is complete. HHSC, DADS and DSHS continue to work with internal and external stakeholders through existing statutorily mandated committees, workgroups and stakeholder meetings. The State continues to refine remediation activities in response to public input where possible.

The public had at least two 30-day public notice opportunities to make formal comments, as a result of July and August 2014 public notices of the preliminary settings transition plans, and a November 2014 public notice of the Statewide Settings Transition Plan. HHSC provides notice of the Statewide Settings Transition Plan through the *Texas Register*, and on the HHSC, DADS and DSHS websites. The notices provide information about the Statewide Settings Transition Plans, the comment period, a link to the Statewide Settings Transition Plan and locations and addresses where comments may be submitted. In addition, the DADS website sends out automatic website notices to individuals who request it. The State also provides notice to the Federally Recognized tribes in accordance with the Texas Medicaid State Plan. The State considered and modified the Statewide Settings Transition Plan, as the State deemed appropriate, to account for public comment, prior to submission of the plan to CMS.

In addition, the State has implemented the following public input strategy, aimed at achieving optimum public input:

- Stakeholder education webinars: DADS conducted two webinars on September 11 and September 14, 2014, to provide all stakeholders an opportunity to learn about the new regulations prior to the October 13, 2014 open meeting held in Austin.
- Bi-weekly conference calls: DSHS will review HCBS requirements and any necessary policy and rules changes, with providers during bi-weekly conference calls. These calls are held in lieu of webinars, and the same educational content of a webinar will be provided.
- Stakeholder meetings: On October 13, 2014, the State held an open stakeholder meeting in Austin providing all stakeholders the opportunity to provide input on the new regulations. In addition, a meeting specifically for YES stakeholders was held by the Hogg Foundation for Mental Health in Austin on December2, 2014. Included as topics of discussion were the settings assessment and the new HCBS rules impact on the YES waiver.
- Electronic notices: The State posted the Statewide Settings Transition Plan on agency websites and in the *Texas Register* in November 2014. The DADS and DSHS assessments were also posted on the agency websites. The preliminary transition plans for several of the waivers were posted in the *Texas Register* and on the agency websites.
- Feedback mechanism: Dedicated electronic mail boxes and websites for HHSC, DADS, and DSHS are available to provide information about the new rules and accept feedback. The websites and the option to make comments will remain active throughout the transition and the State will take any comments received into consideration, until the State completes the transition. State websites are located at the following hyperlinks:
    - http://www.hhsc.state.tx.us/medicaid/hcbs/index.shtml
    - http://www.dads.state.tx.us/providers/HCBS/index.cfm
    - http://www.dshs.state.tx.us/mhsa/yes/
- Presentations at statutorily mandated committees: The State regularly provides updates to the following groups and offers them opportunities to comment on ongoing assessment and remediation activities:
    - Promoting Independence Advisory Committee: comprised of individuals receiving services, advocacy organizations, and providers across target populations.
    - Employment First Task Force: comprised of advocates and providers interested in employment issues.

  - Texas Council on Autism and Pervasive Developmental Disorders: comprised of parents of individuals with autism and professionals.
  - IDD Redesign Advisory Committee: comprised of individuals receiving services, advocacy organizations and providers.
- Presentations at agency workgroups: The agencies also have agency-established workgroups comprised of advocates and providers whose purpose is to examine ongoing rule and policy issues. Staff will provide updates on HCBS transition activities and provide the workgroup members the opportunity to provide comments.
- Presentations at conferences: Provider associations hold annual conferences and State staff have been invited to speak at these conferences. This provides access to a large number of providers for purposes of education, coordination and input regarding changes being made to rules and policy.

For more information or to obtain free copies of the Statewide Settings Transition Plan, you may contact Kathleen Cordova by mail at Texas Health and Human Services Commission, P.O. Box 13247, Mail Code H-370, Austin, Texas 78711-3247, phone (512) 487-3402, fax (512) 730-7472, or by email at TX_Medicaid_Waivers@hhsc.state.tx.us.

Timeline of Statewide Settings Transition Planning

Note: Effective September 1, 2014, the participants in the CBA waiver program were moved into the THTQIP 1115 demonstration waiver. In accordance with recent CMS guidance regarding the 1115 STAR+PLUS HCBS Program, the State will address the application of the HCBS regulation to all HCBS services provided through the Demonstration waiver in an amendment to the statewide transition plan per CMS guidance. HCBS setting requirements will be addressed in the receiving THTQIP 1115 demonstration waiver in accordance with the guidance received, and the State will amend the Statewide Settings Transition Plan upon receipt of the guidance and development of appropriate timelines.

ASSESSMENT - ALL PROGRAMS		
Action Items	**Proposed Initiation**	**Proposed Completion**
Phase I	March 2014	September 2014*
State (HHSC, DADS and DSHS) staff system/internal review of rules and policies and oversight processes governing the waivers.		
State staff identification of areas in which policy and rules appeared to be silent or in contradiction with new HCBS rules		
State staff review of the assessment results and finalizing the internal assessment.		
System/internal assessment results posted on the DADS website for public input. HHSC website is linked to the DADS website.	July 2014	
Consider and modify assessment based upon ongoing public input (e.g., stakeholder groups.)		
Submission of CBA Settings Transition Plan indicating all individuals served would move to the 1115 demonstration waiver effective September 1, 2014, and that the HCBS settings requirements would be addressed in the 1115 demonstration waiver.		August 22, 2014

Phase II	September 2014	December 2015*
Recommendations from stakeholders provided at the October 13, 2014, meeting and webcast will be considered and appropriate changes made.	October 2014	
System internal assessment results posted on DSHS websites for public input. HHSC website is linked to the DSHS website.	November 2014	
Public notice and comment period for the Statewide Settings Transition Plan	November 2014	December 2014
Submission of Statewide Settings Transition Plan to CMS*	December 2014	December 2014
Survey representative sample of providers using a self-assessment tool based on the new HCBS requirements. Provider self-assessments will be verified by a representative sample of participant surveys.	July 2015	December 2015*
Hold additional stakeholder meetings providing individuals receiving services and providers an opportunity to provide input on the assessment and Statewide Settings Transition Plan.	July 2015	December 2015*
The State will continue to refine the Statewide Settings Transition Plan and settings assessment based on public input.		
The State will update the assessment after completion of the entire assessment phase. The update to the assessment will be posted on the agency websites. If as a result of the assessment, there was a change in assessment findings, or the State has added additional remedial action and milestones, the		

State will submit an amendment or modification to the transition plan, after the required public notice and comment period.		
Phase III	January 2015	May 2016
DADS will survey a representative sample of day habilitation/prevocational providers to ascertain whether providers are in compliance with CMS guidance. If applicable, DSHS will survey a representative sample of any non-residential providers to ascertain whether providers are in compliance with CMS guidance.	January 2015	May 2016
A representative sample of provider self-assessments will be verified by a representative sample of participant surveys.	July 2015	December 2015
PUBLIC INPUT ALL PROGRAMS		
Action Items		
Preliminary Settings Transition Plans for HCS, CLASS and MDCP available for public comment through posting in the *Texas Register*.	July 2014	August 2014*
Preliminary Settings Transition Plan for CBA, HCS, CLASS and MDCP available for public comment through posting on the DADS website.	July 2014	August 2014*
Internal assessment document outlining compliance and non-compliance with settings requirements across all 1915(c) waivers operated by DADS posted for public input.	July 2014	September 2014*
Preliminary Settings Transition Plans for CBA and YES available for public comment through posting in the *Texas Register.*	August 2014	September 2014*

DADS HCBS website and electronic mailbox is available to collect stakeholder input and allow public comment on the State's activities toward compliance with the settings requirements.	September 2014	Continuing through the end of the transition period.
HHSC HCBS website and electronic mailbox is available to collect stakeholder input and allow public comment on the State's activities toward compliance with the settings requirements.	September 2014	Continuing through the end of the transition period.
A public stakeholder meeting provided individuals with an opportunity to contribute feedback on the assessment process, the Preliminary Settings Transition Plans posted thus far, and implementation of the settings transition plans to all of the 1915(c) waivers and the 1115 demonstration waiver.	October 2014	October 2014*
Preliminary Settings Transition Plan for YES available for public comment through posting on DSHS website.	October 2014	November 2014*
DSHS HCBS website is available to collect stakeholder input and allow public comment on the State's activities toward compliance with the settings requirements.	October 2014	Continuing through the end of the transition period.
Internal assessment document outlining compliant and non-compliant settings requirements for YES waiver posted for public input.	November 2014*	Continuing through the end of the transition period.
The Statewide Settings Transition Plan posted for public comment. Two forms of public notice were utilized: notice in the *Texas Register* and on the HHSC, DADS, and DSHS websites.	November 2014	December 2014*

Presentations to statutorily mandated committees and agency workgroups that have provider and advocate membership will continue throughout the assessment process. Stakeholders will have multiple opportunities to provide input.	July 2014	Continuing through the end of the transition period.
Presentations at provider association annual conferences.	August 2014	Continuing through the end of the transition period.
The State may implement additional stakeholder communications as such opportunities are identified.	Ongoing	Continuing through the end of the transition period.
Once the assessment phase is completed, if the assessment has resulted in a change in the findings or added specific remedial action and milestones to a waiver, the State will incorporate the public notice and input process into the appropriate submissions to CMS.		
CLASS REMEDIATION		
Action Items	**Proposed Initiation**	**Proposed Completion**
Deliver educational webinars for CLASS providers about new HCBS guidelines.	November 2014	September 2016
Deliver education webinars for CLASS providers on needed changes to pre-vocational services based on CMS guidance.	January 2015	May 2018
Amend CLASS program rules and Chapter 49 contracting rules governing Support Family Services (SFS), Continued Support Family Services (CFS), and employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	December 2016*
Revise the CLASS policy manual, including	April 2016	December 2016

rights/responsibilities forms/publications, based on the assessment to further outline HCBS requirements including SFS, CFS and employment services.		
Develop a new contract monitoring tool for SFS, CFS and employment services to incorporate HCBS setting requirements. The revised monitoring tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.	June 2016	February 2017
Based on CMS guidance regarding pre-vocational services, seek additional funding in 2017 legislative session.	June 2016	May 2017*
Review and include appropriate revisions to the CLASS Settings Transition Plan.	December 2016	March 2017
Public notice and comment period for the revised CLASS Settings Transition Plan.	April 2017	May 2017
Submit CLASS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2017	June 2017*
Revise the CLASS policy manual, including rights/responsibilities forms/publications, based on CMS guidance regarding prevocational services.	June 2017	March 2018
Amend CLASS program rules and Chapter 49 contracting rules governing prevocational services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	March 2018*
Develop a new contract monitoring tool for prevocational services to incorporate HCBS setting requirements. The revised monitoring	June 2017	May 2018

tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.		
Review and include appropriate revisions to the CLASS Settings Transition Plan.	December 2017	March 2018
Public notice and comment period for the revised CLASS Settings Transition Plan.	April 2018	May 2018
Submit CLASS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2018	June 2018*
DBMD REMEDIATION		
Action Items	**Proposed Initiation**	**Proposed Completion**
Deliver educational webinars for DBMD providers about new HCBS guidelines.	November 2014	September 2016
Deliver educational webinars for DBMD providers on needed changes to day habilitation services based on CMS guidance.	January 2015	May 2018
Amend DBMD program rules and Chapter 49 contracting rules governing assisted living facilities and employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	December 2016*
Revise the DBMD policy manual, including rights and responsibilities forms/publications, to further outline HCBS requirements including assisted living services and employment services.	April 2016	December 2016
Develop a new contract monitoring tool for employment services and assisted living to incorporate HCBS setting requirements. The revised monitoring tools will be used to ensure providers are compliant with the new rules and	June 2016	March 2016

policies aimed at compliance with the HCBS regulations.		
Based on CMS guidance regarding day habilitation, seek additional funding in 2017 legislative session.	June 2016	May 2017*
Review and include appropriate revisions to the DBMD Settings Transition Plan.	December 2016	March 2017
Public notice and public comment period for review of the revised DBMD Settings Transition Plan.	April 2017	May 2017
Submit DBMD amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2017	June 2017*
Amend DBMD program rules and Chapter 49 contracting rules governing day habilitation services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	March 2018
Revise the DBMD policy manual, including rights and responsibilities forms/publications to further outline HCBS requirements for day habilitation services based on CMS guidance.	June 2017	March 2018
Develop a new contract monitoring tool for day habilitation services. The revised monitoring tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.	June 2017	May 2018
Review and include appropriate revisions to the DBMD Settings Transition Plan.	December 2017	March 2018
Public notice and public comment period for review of the revised DBMD Settings	April 2018	May 2018

Transition Plan.		
Submit DBMD amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2018	June 2018*
MDCP REMEDIATION (Note: MDCP is scheduled to transition into managed care effective 9-1-16.)		
Action Items	**Proposed Initiation**	**Proposed Completion**
Deliver educational webinars for MDCP providers about new HCBS guidelines.	November 2014	January 2016
Review and include appropriate revisions to the MDCP Settings Transition Plan.	December 2014	May 2016
Public notice and public comment period for review of the revised MDCP Settings Transition Plan to be included in waiver update submitted June 2016.	April 2016	May 2016
Submit MDCP amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2016	June 2016*
Amend MDCP program rules and Chapter 49 contracting rules governing employment services and host home services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	December 2015	September 2016*
Revise the MDCP policy manual, including rights and responsibilities forms/publications, to further outline HCBS requirements including employment services and host home services.	April 2016	September 2016
Coordinate the ongoing monitoring of HCBS requirements with HHSC as MDCP is scheduled to transition into manage care effective 9-1-16.	June 2016	September 2016*

HCS REMEDIATION		
Action Items	**Proposed Initiation**	**Proposed Completion**
Deliver educational webinars for HCS providers about new HCBS guidelines with emphasis on residential services.	November 2014	January 2016
Deliver educational webinars for HCS providers on needed changes to day habilitation services based on CMS guidance.	January 2015	May 2018
Amend HCS program rules and Chapter 49 contracting rules governing residential services and employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	May 2017*
Revise the HCS policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements and ensure specific guidance for residential services and employment services.	June 2016	May 2017
Revise residential review process to incorporate focus on HCBS setting requirements based on rule revisions. Residential reviewers monitor HCS providers annually to ensure compliance with program rules.	December 2016	July 2017
Review and include appropriate revisions to the HCS Settings Transition Plan.	August 2017	December 2017
Public notice and comment period for review of the revised HCS Settings Transition Plan.	January 2018	February 2018
Submit HCS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	March 2018	March 2018*
Amend HCS program rules and Chapter 49 contracting rules governing day habilitation	June 2017	July 2018

services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.		
Revise the HCS policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements for day habilitation based on CMS guidance.	June 2017	July 2018
Revise residential review process to incorporate focus on HCBS setting requirements based on day habilitation rule revisions. Residential reviewers monitor HCS providers annually to ensure compliance with program rules.	June 2017	September 2018
Review and include appropriate revisions to the HCS Settings Transition Plan.	December 2017	August 2018
Public notice and comment period for review of the revised HCS Settings Transition Plan.	August 2018	September 2018
Submit HCS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	October 2018	October 2018*
TxHmL REMEDIATION		
Action Items	**Proposed Initiation**	**Proposed Completion**
Deliver educational webinars for TxHmL providers about new HCBS guidelines.	November 2014	January 2016
Deliver education webinars for TxHmL providers on needed changes to day habilitation services based on CMS guidance.	January 2015	May 2018
Amend TxHmL program rules and Chapter 49 contracting rules governing employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making	January 2016	May 2017*

process.		
Revise the TxHmL policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements and ensure any needed guidance for delivery of employment services.	June 2016	May 2017
Based on CMS guidance regarding day habilitation, seek additional funding in 2017 legislative session.	June 2016	May 2017*
Revise certification review process to incorporate focus on HCBS setting requirements based on rule revisions. Certification reviewers monitor TxHmL providers to ensure compliance with program rules.	December 2016	July 2017
Review and include appropriate revisions to the TxHmL Settings Transition Plan.	August 2017	December 2017
Public notice and public comment period for review of the revised TxHmL Settings Transition Plan.	January 2018	February 2018
Submit TxHmL amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	March 2018	March 2018*
Amend TxHmL program rules and Chapter 49 contracting rules governing day habilitation services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	July 2018
Revise the TxHmL policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements for day habilitation based on CMS guidance.	June 2017	July 2018

Review and include appropriate revisions to the TxHmL Settings Transition Plan.	December 2017	August 2018
Public notice and public comment period for review of the revised TxHmL Settings Transition Plan.	August 2018	September 2018
Submit TxHmL amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	October 2018	October 2018*
YES REMEDIATION		
Action Items	**Proposed Initiation**	**Proposed Completion**
If determined necessary based on assessment and public input, amend YES program rules and other necessary rules and policies to ensure the services comply with the new HCBS guidelines.	November 2014	November 2015*
If determined necessary based assessment, revise the YES policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements.	April 2015	January 2016
If determined necessary based on assessment, revise the YES policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements for non-residential settings.	April 2015	January 2016
If determined necessary based on assessment and public input, amend YES program rules and other necessary rules and policies to ensure the services comply with the new HCBS guidelines.	April 2015	January 2016
Review HCBS requirements, policy changes and rules changes, if necessary, with providers during bi-weekly conference calls.	Ongoing	Continuing through the end of the transition period.

Conduct ongoing monitoring of HCBS requirements and any related policy or rules changes.	Ongoing	Continuing through the end of the transition period
Review and include appropriate revisions to the YES Settings Transition Plan.	January 2016	August 2016
Public notice and public comment period for review of the revised YES Settings Transition Plan.	September 2016	October 2016
Submit YES amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	November 2016	November 2016*

*represents milestone activities

Shaded areas represent amendments to the statewide transition plan and related public notices.

Texas Home and Community Based
Statewide Settings Transition Plan Comments Summary

The state solicited public input throughout its assessment transition planning, and received public comments and input through the following:

- Public notice of several waiver-specific preliminary settings transition plans (July - August 2014) and a public notice of the statewide settings transition plan (November - December 2014);
- Advisory committee and public stakeholder meetings; and
- Dedicated email boxes on the HHSC, DADS and DSHS websites for comments regarding transition activities.

Public notice for the waiver-specific preliminary settings transition plans and the statewide settings transition plan were given in the *Texas Register* and on agency websites. The State provided public notice of the statewide settings transition plan in the Texas Register (39 TexReg 8766), at the following hyperlink:

- www.sos.state.tx.us/texreg/pdf/backview/1107/1107is.pdf

The statewide settings transition plan was posted in its entirety for public comment on the HHSC, DADS and DSHS websites, at the following hyperlinks:

- http://www.hhsc.state.tx.us/medicaid/hcbs/index.shtml
- http://www.dads.state.tx.us/providers/HCBS/index.cfm
- http://www.dshs.state.tx.us/mhsa/yes/

During the July 2014 public comment period for several waiver-specific preliminary settings transition plans, the State received one 16-page document developed by Disability Rights Texas, Texas Council for Development Disabilities, Every Child, Inc. and the Arc of Texas which provided recommendations for the HCBS waivers in general, in addition to waiver specific comments. The State did not receive any other comments during the July 2014 public comment period. The State previously submitted to CMS the public comments from the July 2014 public comment period for CBA, HCS, MDCP and CLASS when the State submitted waiver-specific preliminary settings transition plans for those waivers. Per CMS guidance, the State will now submit those comments from the July 2014 public comment period that have not already been submitted to CMS through the afore mentioned waiver-specific submissions. In short, the State is submitting those comments related to the Deaf Blind with Multiple Disabilities (DBMD), Texas Home Living (TxHmL), Youth Empowerment Services (YES) and the Texas Healthcare Transformation Quality Improvement Program (THTQIP) 1115 Demonstration waivers.

During the November - December 2014 public comment period for the statewide settings transition plan, the State received comments from two commenters, Texas Homecare and Hospice Association and Disability Rights Texas. The November/December comments are similar to the comments received during the July 2014 comment period that they are being summarized and addressed in the summary along with the July comments.

Three days after the official comment period ended, the State received an additional comment from. Providers Alliance for Community Services of Texas., related to day habilitation. The State is including this comment. However, per CMS guidance, in the future, the State intends to summarize only those comments received during the official public comment period. Comments received outside of any official public comment period throughout the transition process will be considered by the State. The State intends to accept comments throughout the entirety of the transition process and is committed to using feedback to guide assessment and remediation strategies until the transition is complete.

The State has considered and modified the statewide settings transition plan as the State deemed appropriate, to account for public comment.

A summary of the comments received during the public notice period, reasons why comments were not adopted, and any modifications to the statewide settings transition plan based upon those comments follows. The State did not receive any comments specific to the YES waiver program. Although comments received by the State addressed the DADS 1915(c) waivers, for those comments that the State determined were also applicable to the YES 1915(c) waiver, the State indicated so in the comment or the State response.

1. Comment: Commenters suggested that the ideal process would include the perspective of waiver participants, people with disabilities, their families, providers, advocates, and state staff. Commenters also suggested that the State use focus groups and participant surveys.

State Response: The statewide settings transition plan includes stakeholder groups that will consist of providers, advocates and individuals receiving services. In addition to stakeholder groups, the State will survey a representative sample of providers and people receiving services using a self-assessment tool based on the new HCBS provisions. This response is applicable to the YES waiver.

2. Comment: Commenters recommend an HCBS Settings Transition Workgroup in order to get meaningful input to determine how close Texas programs come to full compliance. An HCBS Settings Transition Workgroup should be required to recommend that the most meaningful features of each of the waivers, those that support community integration and independence, be expanded to each of the other waivers as part of each waiver’s remediation in preparation for the consolidation anticipated in future years.

State response: The statewide settings transition plan references the stakeholder workgroups it has met with and received comments from, including legislatively mandated advisory bodies and committees, informal stakeholder workgroups, waiver specific dedicated email boxes, etc. All areas of community integration, including access and control, will be continually assessed throughout the state's transition compliance activities which include continued opportunity for stakeholder input. This response is applicable to the YES waiver.

3. Comment: Commenters noted that each waiver has services unique to that waiver such as respite, orientation, mobility, intervener, habilitation and specialized therapies, and suggested that these services might also be useful in the other waivers. The commenters also suggested that all waivers include such services as supported employment and employment assistance.

State Response: The State is already in the process of adding supported employment and employment assistance to the waivers. Adding other services to waiver programs would require additional funding. The State does not have plans to add additional services to the waivers at this time. This response is applicable to the YES waiver.

4. Comment: Commenters suggested that the program rules need to be addressed or strengthened to include the following:
    a. visitability standards;
    b. unimpeded, private, and uncensored communication and visitation with persons of the program participant's choice;
    c. access to the religious services of one's choosing;
    d. co-location and spacing requirements that discriminate against persons with disabilities;
    e. self-advocacy and peer supports;
    f. rules that encourage the development or maintenance of maximum self-reliance and independence with a goal of self-sufficiency;
    g. limiting the use of assisted living facilities (ALFs) and, if continued in DBMD and STAR+PLUS, program rules that prevent the isolation of individuals in "institution-like" settings;
    h. access to certain consumer directed services in group home and host home settings;
    i. service limits that limit access to the greater community or cause risk of institutionalization;
    j. a community living options information process that encourages the most integrated settings and includes ongoing information to people in group homes and host homes, not just for those in institutions; and
    k. uniform mandatory participation (program termination) requirements without sufficient due process protections.

State response: The statewide settings transition plan identifies a process for rule and policy manual revisions. The State will work with stakeholders and evaluate areas in the rules and policy manual that need revisions to support the implementation of the new regulations. All comments related to rule and policy revisions are being tracked and will be addressed during the applicable phase of the state's transition activities.

5. Comment: Commenters suggested that the State create an advisory committee (in line with the Sunset Advisory Commission recommendations) to address the redesign of day habilitation programs to include the perspective of waiver providers, day habilitation owners, advocates, and a substantial number of persons who use or have used day habilitation services. Commenters suggested that Texas should move toward Employment First and Community-Based Non-Work (CBNW) and away from the current facility-based day habilitation programs and sheltered employment. In addition, commenters recommended restructuring of waiver programs to allow for a combination of service arrays across all waivers.

State Response: The statewide settings transition plan already identifies opportunities to address non-residential issues in the timeline. The State will address compliance of non-residential services as the State deems necessary in accordance with the new HCBS regulations, based on recent CMS guidance.

6. Comment: Commenters expressed concern that individuals cannot choose the Consumer Directed Services option if the individual resides in a residential setting.

State Response: The statewide settings transition plan already identifies a process for rule and policy manual revisions. The State will work with stakeholders and evaluate areas in the rules and policy manuals that need revision to support the implementation of the new regulations, including any needed revisions related to this comment.

7. Comment: Commenters recommended expanding Community Living Options informing processes to include focus on non-group home housing opportunities and seeking additional subsidized housing funds to support individuals in HCS, CLASS and other programs. Commenter also recommended pursuing any necessary remedy to prevent local municipalities, home owners associations or other entities from excluding small group home settings in typical neighborhoods or individuals accessing an accessible, affordable apartment of their choosing in an integrated apartment community that serves individuals with and without disabilities.

State Response: The statewide settings transition plan has not been adjusted as a result of this comment. State agencies have limited ability to dictate laws governing local community ordinances governing group home settings in typical neighborhoods. The State currently has initiatives to support housing for individuals with disabilities in local communities and will continue to work collaboratively with local housing authorities and state agencies to support housing initiatives.

In response to guidance from CMS, the State has summarized the comments related to non-residential settings and they are as follows:

8. Comment: Commenters suggested that sheltered workshops and provider-owned and/or controlled day service settings, as currently operated, be presumed to be settings that isolate individuals receiving HCBS from the broader community. Commenters also suggested that these settings be replaced with community-based integrated employment and community based integrated non-work. Commenters further stated that individuals using day habilitation or individuals that have received day

habilitation services should be included on the advisory committee stakeholders recommended for ongoing evaluation of HCBS compliance.

9. Comment: Commenters recommended expansion of competitive and customized employment for individuals with disabilities. This comment is applicable to the YES waiver.

10. Comment: Commenters recommended expansion of Community Based Non-Work (CBNW) within day habilitation programs and through other funding sources such as safety net and home and community-based services or programs. Community-based non-work (CBNW) refers to services focused on supporting people with disabilities to access community activities in settings where most people do not have disabilities.

State Response: The statewide settings transition plan already identifies opportunities to address non-residential issues in the timeline. The State will address compliance of non-residential services as the State deems necessary in accordance with the new HCBS regulations based on recent CMS guidance.

11. Comment: Commenters stated that based on upon numbers from the Health and Human Services Commission used for the development of the Consolidated Budget, day habilitation services in HCS are currently underfunded by about $20 million for the biennium. Commenters indicate that assessing compliance and quality of current day habilitation programs and to allow for flexibility to begin implementing changes sooner rather than later, a request for appropriations to fully fund day habilitation services during the 2015 legislative session is recommended.

State Response: This comment was received outside of the official comment period. The State does not anticipate requesting additional funding until after the assessment process is complete. Therefore, the State has not changed the statewide settings transition plan.

12. Comment: With regard to protecting each individual's privacy, the commenters indicated that TxHmL may force a choice between employment and remaining eligible for the program by requiring eligibility based on a lower income level than most HCBS programs. Commenters stated that TxHmL does not have the institutional income limit up to 300% and that increasing the limit would allow this lower cost program with an overall cost cap of $17,000 annually, to serve individuals who could also work part time. Additionally, commenters suggested that the program would be ideal for keeping children in families if, like the other programs, the parent's income was not counted.

State Response: The State interprets this comment to be a request that it increase the income limit for waiver participants so that they can remain in the waiver and work. This suggestion appears to be outside the scope of the settings requirements imposed by the new rule. Thus, the State is not currently making changes to the statewide settings transition plan to address the comment. However, the

State notes for the commenters' benefit that adopting a higher income threshold for TxHmL may be under consideration in the State's upcoming 2015 legislative session.

13. Comment: Commenters stated that HCBS requirements include that an individual has the same responsibilities and protections from eviction that tenants have under the landlord tenant law and that the state must ensure that a lease, residency agreement or other form of written agreement will be in place for each participant that provides protections that address eviction processes and appeals comparable to those provided under landlord tenant law. Commenters further stated that this is not currently required by the Texas Administrative Code and should be addressed as Texas revises applicable Texas Administrative Code rules for compliance with the Federal HCBS Setting rules.

State Response: The State finds this comment applicable to all of its 1915(c) waivers except for TxHmL and YES. The statewide settings transition plan already identifies a process for rule and policy manual revisions. The State will work with stakeholders and evaluate areas in the rules and policy manuals that need revision to support the implementation of the new regulations, including any needed revisions related to this comment.

14. Comment: Commenters indicated that HCBS settings exclude locations that have qualities of an institutional setting and stated the commenters felt that the DBMD program currently does not meet that standard because it allows for services to be provided to individuals in assisted living facilities with up to 6 individuals in a home.

State Response: The State does not presume that the State's DBMD 4-6 bed assisted living facilities are settings that have the qualities of an institution, such that they would be subject to heightened scrutiny. However, the statewide settings transition plan already identifies a process for assessing compliance with the new HCBS rules and for any necessary rule and policy manual revisions.

15. Comment: Commenters recommended that the DBMD waiver include a core set of community integration principles.

State Response: The statewide settings transition plan already provides opportunities for the State to assess the level of community integration through the existing statewide settings transition assessment process and to make appropriate changes as necessary in the existing remediation phase.

16. Comment: Commenters suggested that the DBMD waiver needs attention and work to ensure compliance with HCBS settings rules regarding the protection of each individual's privacy. The commenters stated that §42.630 of the Texas Administrative Code which specifies the residential service requirements of the DBMD waiver need to be amended to ensure that each individual's privacy is protected.

State Response: The State will assess the level of community integration through the existing statewide settings transition assessment process and make appropriate changes as necessary in the existing remediation phase.

17. Comment: With regard to the DBMD waiver, commenters indicated that further review of residential services is required to address inclusion of a private unit option for individuals.

State Response: The State will assess residential services through the existing statewide settings transition assessment process and make appropriate changes as necessary in the existing remediation phase.

18. Comment: Commenters suggested an increase in focus and accountability regarding choice of housemates or roommates and other choices through training and regulatory activities, including the requirement that service planning addresses desired characteristics of housemates, roommates, and staff and that providers are held accountable for implementing these choices.

State Response: Although commenters are addressing the Home and Community Based Services (HCS) waiver with regard to this comment, the State is also addressing it with regard to DBMD. The statewide settings transition plan already identifies a process for rule and policy manual revisions. The State will work with stakeholders and evaluate areas in the rules and policy manual that need revisions to support the implementation of the new regulations. In addition, the statewide settings transition plan already provides for webinars during the remediation phase designed to educate providers which will support efforts directed at individuals understanding rights afforded to them under the new HCBS regulations. The plan currently includes revising contract monitoring processes to ensure provider reviews include elements indicating that individuals are afforded choices as outlined in the new regulations.

19. Comment: Commenters indicated that work needs to be done through service planning, implementation plan development, and provider accountability to increase the individual's control of one's own schedule of activities, money management, and access to food. Commenters recommended that (1) food choice begin at the grocery store and not at the refrigerator or food pantry door; (2) the individual have access to a minimum personal spending amount; (3) the individual have independent access to those funds; and (4) the individual receive training to manage those funds.

State Response: Although commenters specified the Home and Community-based Services (HCS) waiver with regard to this comment, the State is addressing it in the DBMD settings transition plan as well. The statewide settings transition plan already identifies a process for rule and policy manual revisions. The State will work with stakeholders and evaluate areas in the rules and policy manual that need revisions to support the implementation of the new regulations.

20. Comment: Commenters stated that strict enforcement requiring disclosure of the current room and board agreements prior to enrollment with a provider should happen and individuals should be made aware of the room and board rules and agreements through an educational campaign.

State Response: Although commenters are addressing the Home and Community-based Services (HCS) waiver with regard to this comment, the State is also addressing it with regard to DBMD. The DBMD settings transition plan includes stakeholder groups targeted at individuals receiving services to ensure that individuals receiving services are able to share experiences.

21. Comment: Commenters stated that not only should a person be able to find a living arrangement that is physically accessible, a person who does not use a wheelchair or other mobility device should be able to have a visitor who does.

State Response: Although commenters are addressing the Home and Community Based Services (HCS) waiver with regard to this comment, the State is also addressing it with regard to DBMD. Without additional funding, incorporation of this suggestion will not be implemented into the DBMD settings transition plan at this time.

22. Comment: Commenters recommended that the State create peer support for individuals with Intellectual and Developmental Disabilities (IDD) by individuals, as a means of encouraging more empowerment and choice in the developmental disabilities HCBS programs.

State Response: Although commenters are addressing the Home and Community Based Services (HCS) waiver with regard to this comment, the State is also addressing it with regard to DBMD and TxHmL. Without additional funding, incorporation of this suggestion will not be implemented into the DBMD settings transition plan at this time.

23. Comment: Commenters recommended establishing an educational campaign regarding aspects of the HCBS guidelines, to empower self-advocates and their families to fully benefit from the new guidelines and engage in the 5 year transition process.

State Response: Although commenters are addressing the Home and Community Based Services (HCS) waiver with regard to this comment, the State is also addressing it with regard to DBMD and TxHmL. The statewide settings transition plan already identifies that the State is providing webinars during the remediation phase designed to educate providers which will support efforts directed at individuals understanding rights afforded to them under the new HCBS regulations.

24. Comment: Commenters state that while MDCP does not pay for a residential service, the program would be more consistent with the HCBS guidelines if respite was not allowed to be provided in institutional settings, moving Texas toward more focus on community-based respite options across the waiver programs.

State's Response: Although commenters are addressing the Medically Dependent Children Program (MDCP) waiver with regard to this comment, the State is also addressing it with regard to DBMD. Clarification provided by CMS about the HCBS regulations indicates that states are allowed to deliver out-of-home respite in an institution. Thus, at this time, the State has no plans to revise out-of-home respite settings in the waiver.

25. Comment: Commenters suggested that the settings transition plan include a review of STAR+PLUS waiver rules, policy and procedures.

State Response: In accordance with recent CMS guidance regarding the 1115 STAR+PLUS HCBS Program, the State will address the application of the HCBS regulation to all HCBS services provided through the Demonstration waiver in an amendment to the statewide transition plan.

26. Comments received during the public notice period related to person centered planning were not adopted into the statewide settings transition plan because the statewide settings transition plan and related public notice and comments requirements are only applicable to the settings requirements. However, although not included in the statewide settings transition plan itself, the State will work with stakeholders to address the comments related to person centered planning.