

STATE OF NEW JERSEY

Statewide Transition Plan

Submitted by the NJ Department of Human Services

Due March 17, 2015

The Statewide Transition Plan sets forth the determination of New Jersey's compliance with the regulation requirements for home and community-based settings and person-centered planning at 42 CFR §441.301, 42 CFR §441.710 and 42 CFR §441.530 by March 17, 2015. The Statewide Transition Plan outlines to the Centers for Medicare & Medicaid Services (CMS) how New Jersey will meet compliance by March 17, 2019.

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For additional detail, please refer to the accompanying document entitled *Companion Documents for Compliance Demonstration with Home and Community-Based (HCBS) Setting Requirements*. The NJ 1115 Comprehensive Waiver Demonstration and the 1915 (c) Community Care Waiver were the NJ FamilyCare programs that were subject to an internal review to determine their level of compliance with the federal requirements.

Federal Context

Background on Federal Mandate

In 2009, the Centers for Medicare & Medicaid Services (CMS) published an advance notice of proposed rulemaking that indicated the federal government's intention to initiate rulemaking on a number of areas within the section 1915(c) program. In January 2014, CMS issued a final rule which incorporated amendments as part of the Affordable Care Act and other regulatory changes to ensure that Medicaid's home and community-based services (HCBS) programs provide full access to the benefits of community living and offer services in the most integrated settings. The final rule reflects the significant public comment received over the extensive rulemaking process related to these subjects. CMS received over 2,000 comments to the two proposed rules published in the Federal Register on May 3, 2012 and April 15, 2011.

According to CMS, the rule advances HCBS quality, adds protections for individuals receiving services, and provides additional flexibility to states participating in the various Medicaid programs authorized under section 1915 of the Social Security Act. The regulation, known as the HCBS settings rule, has at its core the assurance that states receiving Medicaid funds meet the needs of individuals who choose to receive their long term services and supports in their home or community, rather than in institutional settings. Its intent is to enhance the quality of HCBS and to provide protections to participants. Service planning must be developed through a person-centered planning process: one that addresses health and long-term services and support needs in a manner that reflects individual preferences and goals.

The final rule became effective March 17, 2014 and gives states one year to submit a transition plan for compliance with the HCBS setting requirements. The Statewide Transition Plan (STP) will outline the steps that New Jersey will have to take to come into compliance by March 17, 2019 (in five years from 2014 when the final rule was published). CMS may approve such transition plans for a period of up to five years to come into full compliance so that no individuals are left without services. Medicaid reimbursement for HCBS settings that isolate will continue from the federal government during the transition period as New Jersey moves towards compliance.

Overview of Federal Mandate

CMS has moved away from defining HCBS settings based on specific locations, a certain geography or physical characteristics. The HCBS setting requirements establish an outcome-oriented definition that focuses on the nature and quality of the individuals' experiences. HCBS is defined in the rules by the access and integration a setting can provide for an individual to the community; the rule speaks precisely to the characteristics of a setting.

While CMS makes clear that non-HCBS settings include nursing facilities, institutions for mental diseases and intermediate care facilities for individuals with intellectual disabilities and hospitals, there are other settings that are “presumed” not to be HCBS. These include locations that are in a publicly or privately-owned facility providing inpatient treatment; on the grounds, or adjacent to a public institution and settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. It is these settings, for instance, that CMS presumes to be institutional and not meeting the HCBS requirements unless a state can demonstrate otherwise. Public input furthermore must be secured in this instance and would need to be brought to the attention of the Secretary of the U.S. Department of Health and Human Services (HHS). A setting, which is presumed institutional, only can be then considered an HCBS setting as follows: It is the Secretary who must determine after a heightened scrutiny review process that the setting does conform to the HCBS requirements and does not have the qualities of an institution.

HCBS settings must provide opportunities for individuals to: seek employment and work in a competitive and integrated environment; engage in community life and control personal resources with the same access to the community as people not receiving Medicaid HCBS. The setting must promote individual initiative, autonomy and independence in making life choices. The requirements apply to all residential settings and day programs.

Additional requirements stipulate that if tenant laws do not apply, the state must ensure that a lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. The state must strive to offer individuals a choice of housing from a spectrum of options, including individual housing units. Requirements for sleeping and living units also are included in the definition: There must be the ability to have privacy with lockable doors, a choice of roommates, and the opportunity to furnish and decorate one’s unit, access food and have visitors at any time. These requirements only may be modified when such a change is based on a specific assessed need, which is justified and documented in the person’s service plan.

Under the HCBS setting requirements, the PCP process needs to be as follows: driven by the individual; help the individual to direct his/her process to the best possible extent, and is both timely and convenient. The PCP must identify the services and supports that are necessary to meet the person’s identified needs, preferences and quality of life goals. The PCP must be fully documented, written down and distributed to the individual and others involved in the plan with reviews and revisions every year, when the individual’s needs or circumstances change or at the individual’s request.

New Jersey Statewide Transition Plan Scope

Introduction

The scope of this document describes how New Jersey will ensure that the NJ 1115 Comprehensive Waiver Demonstration (NJCW) and the 1915 (c) Community Care Waiver (CCW) are in compliance with the home and community-based services (HCBS) setting requirements. It is these two NJ FamilyCare waiver programs that New Jersey has identified for ensuring consistency with the new rules and to form the basis of its Statewide Transition Plan (STP) as required by the Centers for Medicare & Medicaid Services (CMS) by March 17, 2015.

New Jersey confirmed with CMS that the state must comply with the new rule for the NJCW and the CCW. CMS officials referenced its *Statewide Transition Plan Toolkit* guidance dated September 5, 2014, which specifically relates to a state's alignment with the federal requirements for residential and non-residential HCBS. CMS then provided further direction to the NJ Department of Human Services (DHS) in a letter received on December 4, 2014. In this communication, CMS clarified that the regulatory changes to Person-Centered Planning (PCP) also need to be included in the STP.

The State of New Jersey, through the Department of Human Services (DHS) as the single state agency for the Medicaid program (now known as NJ FamilyCare), is charged with developing and implementing the STP on behalf of several state agencies and offices. Within DHS, the Divisions of Medical Assistance and Health Services (DMAHS), Aging Services (DoAS), Disability Services (DDS) and Developmental Disabilities (DDD) play a role in assessing state standards, policies and practices to determine their alignment with federal requirements. DHS' Office of Program Integrity and Accountability (OPIA) also is responsible for licensing and regulatory oversight for the HCBS settings under DDD's purview. The NJ Department of Health (DOH) administers the licensing and regulatory oversight of certain HCBS facilities for the Managed Long Term Services and Supports (MLTSS) program under the NJCW. The NJ Department of Children and Families (DCF), Children's System of Care also is engaged in the STP through its participation in the New Jersey Comprehensive Waiver Demonstration (NJCW).

New Jersey Comprehensive Waiver Demonstration (NJCW)

Since CMS approved the NJCW in October 1, 2012, its implemented reform measures need to be in the STP. The demonstration's goal is to ensure continued coverage for groups of individuals currently under the Medicaid and CHIP State plans, previous waiver programs, and previously state-funded programs. One of the Demonstration's major components is MLTSS, which was launched on July 1, 2014. MLTSS combined four distinct 1915 (c) HCBS waivers into one managed care benefit program. MLTSS refers to the delivery of long-term services and supports through New Jersey Medicaid's NJ FamilyCare managed care program. MLTSS expands HCBS, promotes community inclusion and ensures quality and efficiency.

MLTSS uses NJ FamilyCare managed care organizations MCOs to coordinate all services for their members: acute and primary health care services and their long term services and supports. MLTSS provides comprehensive services and supports, whether at home, in an assisted living facility, in community residential services, or in a nursing home. It comprises personal care, respite, care management, home and vehicle modifications, home delivered meals, personal emergency response systems, mental health and addiction services, assisted living, community residential services, and nursing home care.

The DCF's three HCBS initiatives in the NJCW also are now operational and are highlighted in this STP. Its goals are to provide additional community support and coordination of services for an expanded population of youth that meet the clinical criteria for services. This includes services for certain NJ FamilyCare-eligible individuals that have been diagnosed with a Serious Emotional Disturbance (SED), Autism Spectrum Disorder (ASD) and Individuals with Intellectual/Developmental Disabilities and a co-occurring Mental Illness (ID/DD-MI).

The ASD pilot provides NJ FamilyCare children with needed therapies that they are unable to access through the NJ FamilyCare State Plan, yet are available to other children with private health insurance. By providing intensive HCBS, the ID-DD/MI pilot offers a safe, stable and therapeutically supportive environment for children with developmental disabilities and co-occurring mental health diagnoses, age five to 21, with significantly challenging behaviors. The SED demonstration provides health services for enrollees who have been diagnosed as seriously emotionally disturbed—an at-risk population for hospitalization and out-of-home placement.

In addition, the NJCW has two other initiatives under development, which will need to comport with the HCBS setting requirements upon their rollout. They include the Supports Program, which comes under the auspices of the DDD, and the transformation of the State's behavioral health system for adults by the Division of Mental Health and Addiction Services (DMAHS).

As of this writing, the Administrative Services Organization (ASO)/Managed Behavioral Health Organization (MBHO) still is in the planning process. This goal under the NJCW is expected to transform the State's behavioral health system for adults through delivering behavioral health through the usage of behavioral health ASOs. Exceptions in this service delivery system under which behavioral health will be included in the MCO benefit package include dual eligible individuals in a Special Needs Plan (SNP) and individuals enrolled in MLTSS.

The Supports Program, which is expected to be implemented July 1, 2015, will provide a basic level of support services to participants who live with family members or who live in their own homes. The Supports program will expand the services available to adults with intellectual and developmental disabilities by providing services to individuals who are Medicaid eligible and meet the functional criteria to receive services funded through DDD (excluding people currently served on the Community Care Waiver). Individuals will select their own services, based on their assessed needs, from a menu of services including support coordination, assistive technology, behavioral management, career planning, cognitive rehabilitation, community based supports, community inclusion services, day habilitation, environmental modification,

financial management services, goods and services, interpreter services, natural supports training, occupational therapy, personal emergency response system, physical therapy, prevocational training, respite, speech, language and hearing therapy, supported employment – individual employment support, supported employment – small group support, supports brokerage, transportation, and vehicle modification. The Supports Program will provide expanded opportunities for individuals with intellectual and developmental disabilities to live lives that are fully integrated into their communities.

Community Care Waiver (CCW)

Apart from the above-mentioned NJCW demonstration initiatives, the DHS has incorporated the CCW in its STP. Administered by the DDD, the CCW is a Medicaid 1915 (c) waiver program that pays for the HCBS of NJ FamilyCare individuals with developmental disabilities so they can live in the community. It is a person-driven, long-term support system that offers choice and access to specialized services that aid individuals with intellectual or developmental disabilities in living in the least restrictive settings. Individuals receiving services through the CCW must be Medicaid eligible, must meet the functional criteria to receive services through DDD, and must meet the specified level of care for Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IDD).

At this time, the DDD is in the process of renewing the CCW, which was due to expire on September 30, 2013. It was submitted to CMS in July 2013, and the Division is continuing to work with CMS on its renewal.

Services provided through the CCW include:

- Assistive technology
- Behavior management
- Career planning
- Case management
- Community transition services
- Day habilitation
- Environmental modifications
- Individual supports
- Occupational therapy
- Personal emergency response system
- Physical therapy
- Prevocational training
- Respite
- Speech, language and hearing therapy
- Support coordination
- Supported employment – individual employment support
- Supported employment – small group employment support
- Transportation

- Vehicle modifications

Assessment and Review

Systemic Assessment

With the identification of the NJ 1115 Comprehensive Waiver Demonstration (NJCW) and the 1915 (c) Community Care Waiver (CCW) as the NJ FamilyCare programs to be assessed for compliance with the new settings requirements, it is their standards, policies, licensing regulations and settings that were identified for internal review or self-assessment by the Departments of Human Services (DHS), Health (DOH) and Children and Families (DCF). Each of these NJ FamilyCare programs underwent an internal review to determine their current level of compliance with the settings requirements as required by the Centers for Medicare & Medicaid Services (CMS). While the evaluation mainly focused on home and community-based services (HCBS) settings, a portion also looked at person-centered planning (PCP) and whether the setting takes into account an individual's needs and choices in a way that maximizes his/her independence and ability to engage in the self-direction of services.

Managed Long Term Services and Supports (MLTSS)

MLTSS currently serves about 12,000 members, including an estimated 2,800 individuals living in almost 250 licensed HCBS residential settings: Assisted Living Residences (ALR), Comprehensive Personal Care Homes (CPCH), Assisted Living Programs (ALP) and Adult Family Care (AFC). Also included are about 200 individuals living in residence-owned, rented, or supervised Community Residential Services (CRS) settings. The remainder lives in the community with long-term services and supports benefiting from such services as occupational therapy; physical therapy; social adult day care; speech, language and hearing therapy; and the structured day program.

It is important to note that Adult Medical Day Care is not considered to be a HCBS non-residential setting under the new HCBS settings rule because it is a Medicaid State Plan service in New Jersey, and not a waiver service. The DHS was told by CMS that Medicaid State Plan Services, including Adult Medical Day Care, do not figure into the HCBS setting requirements and the Statewide Transition Plan (STP).

Governing certain residential HCBS settings in MLTSS are these licensing regulations under the New Jersey Administrative Code (NJAC) – NJAC 8:36 and NJAC 8:43B. While these regulations are under the oversight of the DOH from a licensing and survey perspective, MLTSS was developed and implemented, and now is administered and managed at the DHS.

The DHS has responsibility for reviewing all MLTSS standards and policies for compliance with the HCBS setting requirements from the residential and non-residential and PCP perspective. Such documents include the NJCW: Special Terms and Conditions; the MLTSS Service

Dictionary; and the Managed Care Organization (MCO) Contract, Article 9. For instance, the standards outlined in Article 9 of New Jersey’s MCO Contract are identified in addressing the service planning components for MLTSS beneficiaries. Service planning must be developed through a PCP process that addresses health and long-term services and support needs in a manner that reflects individual preferences and goals.

In addition, there are individuals living in Community Residences for Individuals with Traumatic Brain Injuries who are served under MLTSS. These settings are licensed and surveyed by DHS through its Office of Program Integrity and Accountability (OPIA) under NJAC 10:44C – Standards for Community Residences for Individuals with Traumatic Brain Injuries. DHS reviewed this regulation for compliance. These settings include:

| Type | Number of Programs | Number of Beds |
|-----------------------|---------------------------|-----------------------|
| Group Homes | 41 | 263 |
| Supervised Apartments | 11 | 88 |
| Supported Living | 5 | 6 |

Department of Children and Families (DCF), Children’s System of Care (CSOC)

The targeted programs that are operated by the DCF under the NJ Comprehensive Waiver (NJCW) have become operational and therefore are identified for assessment and review in the STP. The Autism Spectrum Disorder (ASD) pilot went live on April 1, 2014, the Individuals with Intellectual/ Developmental Disabilities with Co-Occurring Mental Illness Diagnoses (ID/DD-MI) pilot was launched on October 1, 2014, and CSOC was able to begin claiming federal match on the Serious Emotional Disturbance (SED) program as of October 1, 2012. At this time, the DCF is in the process of identifying and enrolling eligible youth into these programs.

The DCF, in collaboration with the DHS, is responsible for reviewing its standards and policies, including the NJCW: Special Terms and Conditions and attachments C1 and D. Additionally, the following documents were reviewed by DCF/CSOC:

- N.J.A.C 10:73 Chapter 73 Case Management Services;
- NJ Children’s System of Care Youth and Family Guide;
- NJ CANS (Child Adolescent Needs and Strengths) Assessment Tool, and
- NJ Wraparound Training (Values & Principles and Child Family Team Process).

Community Care Waiver (CCW)

Under its current 1915 (c) waiver authority, the CCW serves more than 10,700 individuals in a range of settings. DDD’s licensed residential settings include Community Residences for Individuals with Developmental Disabilities (including group homes, supervised apartments, and supportive living and other supportive housing programs); and Community Care Residences. These settings are licensed and surveyed by the DHS through OPIA under NJAC 10:44A – Standards for Community Residences for Individuals with Developmental Disabilities

and NJAC 10:44B – Standards for Community Care Residences. These are the standards defined in the CCW for residential settings and they have been identified for compliance review with the HCBS setting requirement.

These settings include:

| Type | Number of Programs | Number of Beds |
|------------------------------|---------------------------|-----------------------|
| Group Home | 1,311 | 6,118 |
| Supervised Apartments | 269 | 1,651 |
| Supported Living | 149 | 199 |
| Private Residential Facility | 2 | 122 |
| Community Care Residences | 552 | 1,220 |

In addition to services provided in licensed residential settings, DDD serves people with supported employment and day services through the CCW. The following documents that contain policies and guidance regarding day services have been identified for compliance review:

- Self-Directed Services Policies and Procedures Manual
- Standards for Adult Day Programs

Site Specific Assessment

The DHS has chosen a variety of standard processes, which are underway at the time of the STP's submission, to review the compliance of the provider-owned or controlled residential HCBS settings with the new federal requirements. The residential settings licensed by DOH under NJAC 8:36 that provide HCBS under MLTSS will be given a "self-assessment" survey to demonstrate their level of compliance. At the same time, the DHS will be conducting its own evaluation of the sites listed as HCBS service providers in the CCW (as well as the Community Residential Service settings for MLTSS) since the department also serves as the licensing and survey agency.

Managed Long Term Services and Supports (MLTSS)

The DHS, through the Center for Health Care Strategies, will be electronically sending the MLTSS providers licensed under NJAC 8:36 a self-assessment via SurveyMonkey. The providers are required to think not only about the facility/setting itself when they complete the survey, but whether or not compliance with the rule is applied to each individual served.

The providers will have two months to complete the mandatory self-assessment. These NJ FamilyCare providers are licensed by the DOH under NJAC 8:36, which also is responsible for conducting complaint investigations and routine inspections to facilities without Advance

Standing¹. The DOH randomly conducts unannounced surveys for a percentage of the Advanced Standing facilities to validate the surveys performed through this pilot.

The survey asks providers to “self-assess” their compliance with the new federal requirements and provide evidence of supporting documentation as it is designed to measure a provider’s level of compliance with the HCBS rules. The questions, which were taken from CMS guidance, ask about characteristics that are expected to be present in all HCBS settings and embody the associated traits that individuals in these settings experience.

Documentation that will be deemed acceptable evidence to demonstrate compliance includes, but is not limited to:

- Provider Policies/ Procedures;
- Plan of Care;
- Resident Handbook;
- Lease/Residency Agreements;
- Staff training curriculum and materials;
- Training Schedules, and
- Licensure/certification.

If a question cannot be answered, there is space for the provider to briefly describe the facility’s plan for remedial action and to provide a timeline for reaching compliance. If the state does not receive information from a provider, the DHS will assume that the setting does not meet compliance. Any provider unwilling or unable to complete a self-assessment and achieve compliance within the five-year transition period will be terminated as a NJ FamilyCare provider.

In an upcoming report of its findings for CMS, the DHS will provide its best estimate of the number of settings that: 1) fully comply with the federal requirements; 2) cannot meet the federal requirements and require removal from the program and/or the relocation of individuals; 3) do not meet the federal requirements and will require modifications, and 4) are presumptively non-home and community-based, but for which the state will provide justification/evidence to show that those settings do not have the characteristics of an institution and do have the qualities of HCBS.

The DOH also will need to work in collaboration with the DHS to conduct site inspections of a percentage of the NJAC 8:36-licensed facilities to ensure that their information was accurately

¹ The DOH has collaborated with the Health Care Association of New Jersey Foundation (HCANJF) on a voluntary pilot program for Assisted Living and Comprehensive Personal Care facilities known as Advanced Standing (AS). Facilities receive the designation of Advanced Standing when the Health Care Association of New Jersey Foundation (HCANJF) verifies that the facility has satisfied all state licensing regulations and met quality benchmarks.

self-reported. A plan then will need to be formulated and incorporated into the STP, and presented for public comment and forwarded to CMS, once the survey is completed.

For example, almost all AL facilities, generally built after the adoption of the 1993 licensing regulations, offer both private and double rooms. Meanwhile the CPHC facilities tend to be built pre-1993 as residential/boarding homes and do not generally meet the physical plant standards of new AL construction. The state granted them the opportunity to get an AL license under NJAC 8:36 so that their residents would be able to age in place in their homes and communities with long term services and supports.

Department of Children and Families (DCF), Children's System of Care (CSOC)

DCF's CSOC (formerly the Division of Child Behavioral Health Services) serves children and adolescents with emotional and behavioral health care challenges and their families; and children with developmental and intellectual disabilities and their families. The CSOC is committed to providing these services based on the needs of the child in a family-centered, community-based environment. The settings for the ID/DD-MI, SED and ASD initiatives under the NJCW are in the homes of the youth, so site specific assessments are not required.

Division of Developmental Disabilities (DDD)

As a part of its systems assessment, DDD has identified certain areas of concern that may impact a number of settings across the system. (The results of the assessment and remediation plans are discussed in the next section.)

DDD will conduct a site specific evaluation of every licensed residential setting, which will be conducted by DDD staff that is familiar with each setting. Staff will be asked to think not only about the facility/setting itself when the survey is completed, but whether or not compliance with the rule is applied to each individual served.

Individual site assessments will be completed by June 30, 2015 and DHS will produce a report on its findings to CMS. In this report, the DHS will provide its best estimate of the number of settings that: 1) fully comply with the federal requirements; 2) cannot meet the federal requirements and require removal from the program and/or the relocation of individuals; 3) do not meet the federal requirements and will require modifications, and 4) are presumptively non-home and community-based, but for which the state will provide justification/evidence to show that those settings do not have the characteristics of an institution and do have the qualities of HCBS settings.

State Crosswalk Results

The NJ Department of Human Services (DHS) created a uniform “crosswalk” review tool to evaluate the state’s compliance with the home and community-based services (HCBS) setting and person-centered planning (PCP) requirements for the NJ 1115 Comprehensive Waiver Demonstration (NJCW) and the 1915 (c) Community Care Waiver (CCW). The review was used to evaluate licensing regulations, and standards and policies in terms of achieving compliance with the mandate for provider-owned or controlled residential settings from the Centers for Medicare & Medicaid Services (CMS).

Using the federal rule citations and the CMS guidance, the state methodically reviewed each federal requirement, addressing it by demonstrating compliance, providing proof of compliance, or offering a remediation approach, when applicable. The tool assisted New Jersey in determining whether the characteristics of HCBS requirements are present in these domains: physical location, community integration, PCP, choice and independence, and resident rights.

Managed Long Term Services and Supports (MLTSS)

Review of MLTSS Regulations

The NJ Department of Health (DOH) and the DHS conducted a crosswalk review of the HCBS setting requirements in Managed Long Term Services and Supports (MLTSS) with the licensing regulations in the New Jersey Administrative Code (NJAC) at NJAC 8:36. NJAC 8:36, which governs Assisted Living Residences (ALR), Comprehensive Personal Care Homes (CPCH) and Assisted Living Programs (ALP), was effective December 23, 2013 and will be up for re-adoption in 2020 when the regulations expire. NJAC 8:43B, which regulated Adult Family Care (AFC), is expired. It is important to reiterate that there are about 12,000 MLTSS members living in HCBS residential and non-residential settings with AFC serving about 18 MLTSS members in private homes.

Overall, the state can determine that the NJAC 8:36 licensing regulations meet compliance with the new federal rule for HCBS settings, including the qualities of provider-owned or controlled residential settings, as demonstrated in the evaluation. There are certain areas in NJAC 8:36, however, where remediation is recommended to achieve compliance with the federal rule. NJAC 8:43B needs to be reissued.

In addition, the DHS did a crosswalk review of the HCBS setting requirements with the licensing regulations in NJAC 10:44C, which licenses the Community Residential Services (CRS) setting for individuals with a diagnosis of acquired, non-degenerative, or traumatic brain injury (TBI). NJAC 10:44C was largely found to be in compliance.

The self-assessment results of each provider-owned or controlled residential setting will complete New Jersey’s overview of compliance with the new HCBS rules to the benefit of

MLTSS members. The licensing rules cannot be viewed apart from the findings on each facility's compliance.

NJAC 8:36 and the Federal Rule

The state reviewed the CMS guidance on physical location. Based upon that review, the state believes that the facilities cited in NJAC 8:36, applying to ALRs, CPCH and ALP, are in compliance with the HCBS settings rule. New Jersey Statute says that a resident of a licensed healthcare facility cannot be discriminated against by reason of payer source. It also says that a minimum of 10 percent of the general bed complement for AL facilities (licensed after 2001) needs to be occupied by Medicaid-eligible residents. MLTSS members who are in an AL facility are part of the broader community of individuals who are living there. Furthermore, there are no AL facilities on the grounds of public institutions. In New Jersey, there are 11 county-owned nursing facilities, but they do not include AL residences. New Jersey also operates 14 AL programs within publicly subsidized housing buildings, but again, there is no separation of MLTSS members from the building's general population.

Looking at the CMS guidance termed integration with the community, the state found NJAC 8:36 to be largely compliant. One area of concern, which will require discussion with stakeholders, is with regard to the visitation policy. While the regulation states that the resident has the right to meet with visitors of his/her choice at any time, it is in accordance with a facility's policies and procedures.

New Jersey's regulation meets compliance in the area of PCP. The federal regulatory citations and guidance are addressed in NJAC 8:36, but now are the responsibility of the NJ FamilyCare managed care organizations (MCOs) for MLTSS members. In New Jersey, the requirement for PCP is found in contract language between the state and the MCOs instead of regulation.

Under choice and independence, NJAC 8:36 demonstrates compliance with most of the required qualities in the HCBS setting requirements. Two areas, which will need further consideration for achieving compliance, focus on the qualities of sharing a room and choice of roommate as well as the dining experience. While both features are covered in the New Jersey regulation, the state does not believe they satisfy the new CMS rule. The NJAC regulation does not specifically say that individuals have a choice of roommates in the setting. It also leaves the decision of having access to food at any time to the facility's policies and procedures, and not to the individual.

Lastly, almost 80 percent of the AL facilities in New Jersey have special Alzheimer's disease/dementia units, so there was an initial concern about free access in the setting, another requirement in the new rule. The final CMS toolkit document issued December 15, 2015, however, provided further guidance and explained that the HCBS requirements can be modified, but any change must be based on an individually assessed need, and justified and documented in the PCP. It is important to note that such special units for MLTSS members are a critical component in an HCBS setting when controlled entry and exit are necessary for safety.

Adult Family Care (AFC) and the Federal Rule

AFC was reviewed in the same manner as the HCBS settings in NJAC 8:36 with a crosswalk, including these domains: physical location, community integration, PCP, choice and independence, and resident rights. Since NJAC 8:43B has expired, the DHS examined AFC in the context of a service under MLTSS.

AFC enables up to three unrelated individuals to live in the community in the primary residence of a trained caregiver who provides support and health services for the resident. AFC may provide personal care, meal preparation, transportation, laundry, errands, housekeeping, socialization and recreational activities, monitoring of participant's funds when requested by the participant, up to 24 days of supervision, and medication administration. At this time, there are 18 MLTSS members living in the AFC setting.

In a review of the CMS guidance on physical location and community integration, the state does not believe these citations apply to AFC. This HCBS setting is provided in the home of a paid caregiver—a private home located in the community. In addition, each AFC sponsor agency has a social worker whose responsibilities include contacting social services and other community resources for information, referrals and services. While a private home affords the individual a home-like setting, it is the PCP and the provision of appropriate services that ensures community integration.

PCP is the responsibility of the NJ FamilyCare managed care organizations (MCOs) for their MLTSS members in AFC. In New Jersey, the requirement for PCP is found in contract language between the state and the MCOs. The Plan of Care (POC) is contractually required to be person-centered and culturally sensitive, and offer appeal rights to the MLTSS members.

AFC demonstrates compliance with the required CMS qualities for choice and independence and resident rights in the new rule. Since AFC is provided in the home of a paid caregiver, the following proof can be provided:

- Since the MLTSS members are living in private homes, there would be no posting of visitation hours and there is one kitchen in the residence and no assigned seat in a dining room.
- The kitchen, laundry and other community areas are fully accessible. While bedrooms are fully furnished, personal items such as linens, decorations, pictures and other items of interest to the resident, are allowed.
- A contractual agreement between the resident, the sponsor agency and the caregiver needs to be signed by all parties and kept on record with copies provided to all parties.
- All state rights and laws for landlord/tenant relations are enforceable.

NJAC 10:44C and the Federal Rule

Settings licensed under NJAC 10:44C include licensed group homes, supervised apartment programs, and supportive living programs serving recipients of HCBS services who have traumatic brain injuries, some who are receiving services and supports under MLTSS. A review of the regulations and standards governing these licensed settings was conducted in accordance with the values contained in the HCBS setting standards, including physical location, integration with the community, PCP, choice and independence, and resident rights. Based on this review, the regulations, standards and policy governing these licensed settings were found largely to be in compliance with the standards for HCBS settings. However, the following system components were identified as in need of remediation:

- Physical Location – The DHS’ regulations with regard to the isolation of individuals will require remediation to maximize the community integration that individuals experience. As the regulation currently is silent regarding location of sites in gated or secure communities, as well as on co-location with residential schools, the DHS will amend the regulation to clarify that these settings are prohibited. (No settings currently are licensed in these locations.)

The DHS also will revise its regulatory and licensing requirements regarding provider-owned and controlled settings that are co-located and operationally related whereby a large number of people with disabilities are congregated together. The regulation is currently silent on this practice. To ensure that settings available to recipients of HCBS services are truly community integrated, DDD will modify its regulatory and licensing requirements to clarify this issue.

- Choice and Independence – The regulations currently are silent regarding roommate choice for individuals who share a bedroom. DHS will revise its policy regarding placement formally to assure individuals’ participation in roommate selection in those settings where bedrooms are shared. The regulation also is silent on the provision of comfortable accommodations for private visits, and the DHS will adopt formally a policy requiring these accommodations.
- Resident Rights -- The regulatory and licensing standards currently do not require provider-owned or controlled settings to provide individuals living there with leases or legal agreements that provide all of the rights and responsibilities guaranteed under NJ tenant/landlord law, including eviction rights. In order to provide full compliance with the HCBS rule, as well as to offer individuals receiving HCBS services maximum choice and control over their living settings, the DHS will adopt formally a policy requiring that all individuals living in licensed settings or in unlicensed independent housing settings who are receiving HCBS must live in lease-based housing. Leases must provide all the rights and responsibilities accorded by NJ tenant/landlord law, and should be comparable to leases held by individuals in the same settings who do not receive HCBS.

Review of Managed Long Term Services and Supports (MLTSS) Standards and Policies

MLTSS was developed and implemented effective July 1, 2014 based on the assumption that the NJCW demonstration already was compliant with the HCBS settings and PCP requirements. The Special Terms and Conditions (STC), which the DHS received from CMS with the approval of its NJCW in October 2012, had been negotiated with CMS as the new federal rule was being crafted.

The other major documents governing MLTSS are the MLTSS Service Dictionary and the state contract with the managed care organizations (MCOs) known as Article 9. The standards and policies comprising these documents were developed with the STCs as the foundation. The MLTSS Service Dictionary and the MCO Contract, Article 9 were approved by CMS. For the purposes of the STP, the STCs, MLTSS Services Dictionary and the MCO Contract, Article 9 were reviewed to demonstrate their compliance.

Two crosswalks were conducted on each of these documents with regard to the new rule looking at both the requirements for HCBS settings and PCP. The domains of physical location, community integration, PCP process, choice and independence and resident rights were considered.

The STCs were found compliant. However, there are areas that require remediation at the licensing and regulatory level to meet fully the new federal mandate. While the requirement for PCP is demonstrated in the STCs, this cornerstone of MLTSS is a responsibility of the MCOs under the managed care approach.

The MLTSS Service Dictionary is a high level description of the services offered in MLTSS. The majority of the descriptions do not include information on what would be required of the residential and non-residential setting provider to be considered in compliance with the HCBS settings rule. In New Jersey, this requirement would be a licensing and regulatory function.

The provider-owned and controlled residential HCBS settings licensed under NJAC 8:36 and NJAC 10:44C are defined in the MLTSS Service Dictionary. AFC also is defined. Service definitions are also included in the MLTSS Service Dictionary for non-residential HCBS settings, ranging from social adult day care to occupational and physical therapy, a structured day program, and supported day services.

The DHS also evaluated the MCO Contract, Article 9 using the two “crosswalk” reviews to demonstrate compliance. With MLTSS, the DHS took the CMS language and used it in its contract language with the MCOs. PCP is central to what the MCOs must incorporate into the care management of their members and is required in the MCO contract approved by CMS. In this managed care approach, the state holds the MCOs responsible for ensuring that the provisions under MLTSS are compliant with the new rule.

Each of the qualities deemed essential in the CMS guidance for PCP in the domains of the process and resident rights are present in the MCO contract language. The federal rules are incorporated fully into the MCO Contract, Article 9. With regard to the HCBS setting requirements, the contract is largely silent as meeting these standards would be a responsibility of each individual setting and thus be under the oversight of licensing and regulation.

Department of Children and Families (DCF), Children’s System of Care (CSOC)

DCF’s three programs under the NJCW were developed and implemented based on the assumption that they already were compliant with the HCBS settings and PCP requirements. Given that the ASD, ID-DD-MI and SED initiatives operate in the homes of the youth they serve, the DCF conducted crosswalks of the PCP requirements with regard to standards, policies and regulation. In its review, the DCF found that these documents provide evidence of its commitment to person-centered planning (PCP):

- N.J.A.C 10:73 Case Management Services;
- NJ Children’s System of Care Youth and Family Guide;
- NJ CANS (Child Adolescent Needs and Strengths) Assessment Tool, and
- NJ Wraparound Training (Values, Principles and the Child Family Team Process).

Indeed, there is consistent language throughout NJAC 10:73 Case Management Services that requires the Care Management Organizations (CMO) to incorporate the PCP process in all aspects of care coordination and service planning with the youth and family.

PCP is a key component of the CMO involvement with the youth and the family, and is embedded in the regulations and trainings governing their service. PCP is a core CSOC value, which is reinforced within the child/family team meeting approach to actively engage the family and youth in a family-driven process. It includes everyone’s active participation at all levels of planning, organization and service delivery. CMO Care Managers receive special training known as the NJ Wraparound Training with its emphasis on the values and principals of the child/family team process.

In addition, the CSOC Youth and Family Guide is a comprehensive resource for families. Included is material on: the CSOC and its contracted system administrator PerformCare; access to services, supports, services; and eligibility and member’s rights and privacy expectations. Furthermore, the NJ CANS is an assessment tool used by system partners to assist the youth and family in identifying strengths and needs for treatment and individualized service planning.

Community Care Waiver (CCW)

The licensed settings in which the Division of Developmental Disabilities (DDD) provides HCBS services through the CCW are contained in NJ 10:44A – Standards for Community Residences for Individuals for Developmental Disabilities and in NJ 10:44B – Standards for Community Care Residences. Policies and procedures regarding day services provided through the CCW are

contained in the DDD Standards for Adult Day Programs and the DDD Self-Directed Services Policies and Procedures. The DHS conducted a crosswalk review of the HCBS setting requirements with these documents.

Overall, the state has determined that its licensing regulations and policies and procedures are in substantial compliance with the HCBS setting requirements. The review has identified certain areas of non-compliance. Those areas and the suggested remediation are described below. The plan is to ensure that DDD's system maximizes the opportunities for individuals receiving HCBS so they may experience a high degree of choice and community integration.

The system assessment indicates substantial compliance. However, the site-specific assessments to be conducted by DDD staff for each residential setting will determine the ways in which programs implement DDD's policies to provide for full compliance with the HCBS standards.

NJAC 10:44A and the Federal Rule

Settings licensed under NJAC 10:44A include licensed group homes, supervised apartment programs, supportive living programs, and other licensed residential programs serving recipients of HCBS services who have intellectual and developmental disabilities. A review of the regulations, standards and policy governing these licensed settings was conducted in accordance with the values contained in the HCBS setting standards, including physical location, integration with the community, PCP, choice and independence, and resident rights. Based on this review, the regulations, standards and policy governing these licensed settings were found to be largely in compliance with the standards for HCBS settings. However, the following system components were identified as in need of remediation.

In terms of the CMS guidance with regard to physical location, DDD's regulations regarding those settings located on the grounds of or immediately adjacent to public institutions serving a similar population will require remediation. The regulation currently is silent on this practice, and DDD has six licensed programs operating on the grounds of developmental centers. Until the amendment is completed, DDD will adopt a formal policy. It will prohibit the establishment of community residences on the grounds of, or immediately adjacent to, developmental centers, and will require the programs currently sited there to relocate to community-integrated settings by June 30, 2016. DDD will provide technical assistance and other resources to assist individuals in transitioning to community-integrated settings.

In addition, DDD's regulations regarding settings that isolate individuals receiving HCBS services from the broader community of individuals who do not receive those services will require remediation—to maximize the community integration that individuals experience. To ensure that recipients of HCBS services may choose from among a spectrum of settings that provide the maximum opportunity for community integration, DDD will modify its regulatory and licensing requirements, as well as its policies, to ensure that all new congregate settings, specifically for people with intellectual and/or developmental disabilities, will have a level of

service of no more than four individuals (which may be expanded to six for programmatic reasons and subject to prior review and approval by DDD). In addition, DDD will modify its regulatory and licensing requirements, as well as its policies, to ensure that in settings serving more than four individuals (or six with DDD approval as described above), no more than 25 percent of units are specifically set aside for individuals with disabilities. These policies will cover both licensed settings and unlicensed independent housing settings where individuals receive HCBS services through the CCW or through the Supports Program.

DDD also will revise its regulatory and licensing requirements regarding provider-owned and controlled settings that are co-located and operationally related whereby a large number of people with disabilities are congregated together. The regulation currently is silent on this practice. To ensure that HCBS recipients may choose from among a spectrum of settings that provide the maximum opportunity for community integration, DDD will modify its regulatory and licensing requirements. The modification will ensure that all new congregate settings, specifically for people with intellectual and developmental disabilities, will have a level of service of no more than four individuals (which may be expanded to six for programmatic reasons and subject to prior review and approval by DDD). In addition, DDD will modify its regulatory and licensing requirements, as well as its policies, to ensure that in settings serving more than four individuals (or six with DDD approval as described above), no more than 25 percent of units are specifically set aside for individuals with disabilities. These policies will cover both licensed settings and unlicensed independent housing settings where individuals receive HCBS services through the CCW or through the Supports Program.

In order to meet compliance with the CMS guidance for *integration with the community*, the DDD will modify its regulatory and licensing requirements as described above. This change will be necessary to ensure that the settings prevent the isolation of individuals receiving HCBS from those individuals not receiving those services in the broader community, as well as ensuring that individuals do not live apart from those not receiving those services. In addition, the regulations are currently silent on the location of settings among other private residences and retail businesses, and DDD will adopt formally a policy requiring settings to be located among other private residences and retail businesses. DDD will incorporate this policy into its current approval of sites prior to lease or purchase for development.

With regard to the CMS guidance concerning choice and independence, the regulations currently are silent regarding roommate choice for individuals who share a bedroom. DDD will revise its policy regarding placement to assure formally individuals' participation in roommate selection in those settings where bedrooms are shared.

DDD's regulatory and licensing standards currently do not require provider-owned or controlled settings to provide individuals living there with leases or legal agreements that provide all of the rights and responsibilities guaranteed under NJ tenant/landlord law, including eviction rights. In order to provide full compliance with the HCBS rule in the area of resident rights, as well as to offer individuals receiving HCBS services maximum choice and control over their living settings, DDD will modify its regulatory and licensing standards to ensure lease-based housing.

Until the regulatory and licensing changes take effect, DDD will adopt formally a policy requiring that all individuals living in licensed settings or in unlicensed independent housing settings who are receiving HCBS must live in lease-based housing. Leases must provide all the rights and responsibilities accorded by NJ tenant/landlord law, and should be comparable to leases held by individuals in the same settings who do not receive HCBS.

In order to support this movement to lease-based housing, and to further the separation of housing and services in accordance with national best practices, the DHS has taken several steps. It has established an Office of Housing, which will consolidate the housing efforts supported by the DHS, develop housing policy in collaboration with the divisions of DHS, and oversee the day to day housing operations of the two Divisions with allocations of DHS housing subsidies – the Division of Mental Health and Addiction Services (DMHAS) and the DDD.

DHS also has entered into a partnership with the NJ Housing & Mortgage Finance Agency (HMFA) to operate the Supportive Housing Connection (SHC), a clearinghouse for the administration of DHS housing subsidies. The SHC will administer housing payments, enter into agreements with landlords to ensure the provision of lease-based housing, inspect units according to the HUD Housing Quality Standards, and offer tenant inquiry resolution services for DMHAS and DDD.

The DHS, through the SHC and through its Office of Housing, will provide training and technical assistance to DDD providers and individuals on the transition to lease-based housing. DDD also has received approval to use a portion of its Money Follows the Person Rebalancing Funds (state funds) to provide training to individuals, families, providers, landlords and other stakeholders on supportive housing and lease-based housing.

In addition, DDD has identified another point of concern. It relates to the HCBS standard requiring that the state be able to offer individuals a choice from among a variety of housing options. An assessment of DDD's current housing settings relies heavily on congregate sites that serve only individuals with disabilities, specifically licensed group homes. The overwhelming majority of the beds in settings licensed under 10:44A (77 percent) are in group homes, while only 199 beds are in supported living programs. Based on DDD's current pipeline of new projects, DDD anticipates licensing an additional 750 beds in the next 18 months, none of which currently are projected to be supported living beds. DDD believes that, in order to maximize the community integration experienced by recipients of HCBS services, and to increase opportunities for individuals to experience a true choice in housing settings as required by the HCBS standards, a significant increase in the availability of community integrated, non-disability-specific settings is required. DDD will provide the following incentives to increase the availability of non-congregate settings that will allow individuals receiving HCBS services to live in settings that include those who do not receive HCBS services:

- The DHS, along with the HMFA and the Department of Community Affairs, invests a significant amount of state-only funds to increase the housing available to people served by DDD. These funds include capital financing from a variety of sources to

acquire, renovate and build housing for people with disabilities, as well as funding for fire suppression systems, start-up costs, vehicles, housing subsidies and other resources. As of July 1, 2016, DDD will direct these state-only incentives to the development of programs located in settings in which no more than 25 percent of the units will be set aside specifically for people with disabilities. This direction will enhance the ability of individuals receiving HCBS services to have a choice among a full spectrum of housing resources.

- In order to offer individuals currently living in licensed group homes the choice to live in a non-disability-specific setting, DDD will use state-only funding to provide a housing subsidy, based on the fair market rent, and some start-up costs. The subsidy will be directed to individuals receiving HCBS services who choose to leave a licensed group home setting for an integrated community setting in which no more than 25 percent of the units are set aside specifically for people with disabilities.

This investment of state-only funds reflects DDD's strong support for the HCBS final rule values of choice and community integration. The existing portfolio of licensed group home beds will remain available to serve individuals who need and select that choice, while the direction of these incentives will increase the opportunities available for individuals who select other options.

NJAC 10:44B and the Federal Rule

A review of the regulations, standards and policy governing Community Care Residences (CCRs) was conducted in accordance with the CMS guidance and values contained in the final rule, including physical location, integration with the community, PCP, choice and independence, and resident rights. Based on this review, the regulations, standards and policy governing Community Care Residences (CCR) were found to be largely in compliance with the standards for HCBS settings. The following system components were identified for remediation:

Under the domain choice and independence, DDD's practice regarding roommate selection requires remediation. While DDD case management staff currently assist individuals with requests for their own bedroom or roommate choice, DDD will revise its policy regarding the CCR Placement Process to make explicit the individuals' right to participate in roommate selection. In addition, to ensure compliance in the area of individual control over his/her own resources, DDD will amend regulation 10:44B, as well as policy regarding CCRs, to comport with current Social Security rules regarding representative payees, to ensure individuals' rights regarding control of their personal resources are met.

Under the domain *resident rights*, DDD's regulations and policies currently do not require individuals to hold a lease or a legal agreement reflecting rights and responsibilities in accordance with NJ tenant/landlord law, including eviction processes and appeals. DDD will amend its policy to require individuals to hold a lease or have a legal agreement reflecting rights and responsibilities under NJ tenant/landlord law.

Day Services

A systemic assessment of DDD policies regarding day services as contained in the DDD Standards for Adult Day Programs and the DDD Self-Directed Services Manual was conducted. The review found the policies to be in substantial compliance with the HCBS standards. However, the review found that in order to come into full compliance and to offer individuals a maximum of choice and integration in their day services, the standards required clarification in the areas of avoiding individual isolation and offering a maximum of community participation and integration for individuals receiving HCBS services. To remediate this issue, DDD will adopt the following policies regarding day services and will revise the Standards for Adult Day Programs and the DDD Self-Directed Services Manual to reflect these policies:

- As an employment first state, DDD will focus on competitive employment activities for all individuals.
- For individuals whose person-centered plan indicates the need for day services at this time, those services must be provided in a community-based setting and in activities chosen by the individual.
- For facility-based day programs:
 - The facility should serve as a hub and central meeting location, while the majority of programming is offered out in the community in activities such as volunteering, pre-vocational training, recreation, etc. Individuals should spend the majority of their time in activities they choose in the community that reflect their individual interests and goals, not at the facility. In furtherance of this goal, individuals should spend at least 75 percent of their time in activities in the community, not at the facility.
 - There will be no overall facility schedule for participants; each individual should have a unique schedule reflecting their interests and goals.
 - DDD is in the process of implementing a certification process for day habilitation providers that will begin in 2015. All day habilitation providers, including those providers already offering day habilitation services in our system, will become certified prior to applying to become an approved provider of day habilitation services. As part of the certification process, potential day habilitation providers will need to share their plans for ensuring the individuals they serve are integrated in the community at least 75 percent of the time.

Multiple services for people with intellectual and developmental disabilities may not be offered at the same site. Residential and day programming may not be co-located, and self-directed day services may not be based at the same site in which individuals live. Programming that is co-located must be transitioned to compliance by July 1, 2016.

Stakeholder Engagement

Mandate

The regulatory requirements for the Statewide Transition Plan (STP) are specific in terms of how the public input process must be conducted prior to its submission to the Centers for Medicare & Medicaid Services (CMS). New Jersey must demonstrate public input in the entire process. The state must provide a 30-day public notice and comment period on the plan it intends to submit to CMS and provide a minimum of two statements of public notice and public input procedures. The full transition plan also must be available for public comment and modified based on the feedback, as appropriate. CMS expects to see evidence that New Jersey's entire stakeholder community and the general public have been involved in the transition plan's development, that it details the actions necessary to achieve or document compliance with the federal requirements – and that it accurately depicts the state's current status.

General Education

The NJ Department of Human Services (DHS) has adopted an educational approach to inform and update individuals, families, caregivers, providers and stakeholders about the HCBS setting requirements. In the summer of 2014, the DHS, including the Divisions of Medical Assistance and Health Services (DMAHS), Aging Services (DoAS), Disability Services (DDS) and Developmental Disabilities (DDD), started providing general information on the new federal regulations in meetings with providers and other stakeholder groups. Key stakeholder groups included the Managed Long Term Services and Supports (MLTSS) Steering Committee; the Medical Assistance Advisory Council (MAAC); Arc of NJ; Alliance for the Betterment of Citizens with Disabilities (ABCD); NJ Association of Community Providers and the NJ Council on Developmental Disabilities. A dialogue ensued to create general awareness and an understanding about the requirements and New Jersey's timeline to submit the STP. While stakeholders knew about the new federal requirements, their information had been acquired from a national perspective and not specific to New Jersey.

As part of its goal of engaging local stakeholders and encouraging participation in the STP, New Jersey developed tools to educate the community on the CMS guidance and New Jersey's process and timeline for achieving compliance. A webpage was created on the DHS' website at www.state.nj.us/humanservices/dmahs/info/ with mailbox addresses to receive public comments by email as well conventional postal delivery. The topic was highlighted on the DHS' homepage with links to the various divisions and their respective stakeholders. Materials were posted as they were developed, including YouTube videos of two PowerPoint presentations— one targeted to consumers and another one primarily for providers.

Public Notice

The DHS is beginning its 30-day public comment period for the draft version of the STP on January 26, 2015 and ending it on February 26. The comment period coincides with the two formal public input sessions that the DHS is holding on January 27, 2015 and February 4, 2015.

Statements of public notice are running on the Department's website and on Facebook, and in three newspapers, including The Star Ledger, for central New Jersey; Courier Post, for South Jersey; and The Record/Herald News, for the northern part of the state. The STP also is posted at www.state.nj.us/humanservices/dmahs/info/ on the DHS website.

The public is invited to comment on the STP by attending a public input session and/or reading the draft STP that was simultaneously posted. Public comments could be provided through a dedicated email address on the DHS website or in writing to HCBS Rules in care of Deputy Commissioner Lowell Arye, NJ Department of Human Services, P.O. Box 700, Trenton, NJ 08625-0700.

Public Comments

Included in the STP submitted to CMS by March 17, 2015 will be a summary of the public comments, including comments that agree/disagree with New Jersey's determinations about whether types of settings meet the HCBS settings requirements; a summary of modifications to the STP made in response to public comments or the rationale that the state has used to confirm its determination. The state will post its final STP on the DHS website, with any modifications based on public input, no later than the date of its submission to CMS.

Steps to Full Compliance for New Jersey

New Jersey Comprehensive Waiver Demonstration (NJCW)

The New Jersey Comprehensive Waiver Demonstration (NJCW) was approved by the Centers for Medicare & Medicaid Services (CMS) on October 2, 2012, and is effective October 1, 2012 through June 30, 2017. This five year demonstration has two initiatives under development at the NJ Department of Human Services (DHS) that will need to comport with the home and community-based services (HCBS) setting requirements upon implementation. They include the Supports Program, which comes under the auspices of the Division of Developmental Disabilities (DDD) and the transformation of the state's behavioral health system for adults through behavioral health administrative service organizations by the Division of Mental Health and Addiction Services (DMAHS).

In the federal fiscal quarter from 7/1/14-9/30/14, the DHS, Division of Medical Assistance and Health Services (DMAHS) updated CMS on the status of these initiatives in its quarterly report

pursuant to Special Terms and Condition 101 in the NJCW. The following is a summary of what was provided to CMS:

Supports Program

The Supports program, which is expected to be implemented July 1, 2015, will provide a basic level of support services to participants who live with family members or who live in their own homes. Each individual served will receive a smaller package of program services than what is available to individuals served in New Jersey's Community Care Waiver (CCW), primarily because individuals have access to nonpaid supports available to them. In effect, federal financial participation will be available for New Jersey's current Family Support Program plus some new services will be added. The new services will center on independent living including employment and day services.

The DDD has begun phase two of implementation of the Supports Program. DDD is changing its current payment system to a Fee-for-Service (FFS) system. The timeline for the implementation of this system covers September 2014 through January 2015.

During this time, DDD requested and received feedback related to standardized rates for the program that were released in July 2015. Questions received from stakeholders included FFS implementation, application of the rates, and service definitions associated with the services that will be available through the Supports Program.

In preparation for the implementation of the Supports program, DDD has developed and released educational materials to both providers and families, including a FFS webpage, a webinar for families and individuals to instruct them on the new system, quick guide for fee-for-service rates, and a frequently asked questions guide.

DDD has met with stakeholders and received input regarding the application of the acuity differential rate for applicable services and licensing regulations. DDD also sought and received input from families regarding supports brokerage and self-hires.

DDD has established an internal workgroup to connect assessed needs to access to services and applicable rates for needed services. The Division continues to meet and present to stakeholder groups, which include self-advocacy groups, trade organizations, parents, schools, providers and DDD staff.

Administrative Services Organization/Managed Behavioral Health Organization

As of this writing, the Administrative Services Organization (ASO)/Managed Behavioral Health Organization (MBHO) still is in the planning process. This goal under the NJCW is expected to transform the state's behavioral health system for adults through delivering behavioral health through the usage of behavioral health administrative service organizations (ASOs). Exceptions in this service delivery system under which behavioral health will be included in the MCO

benefit package include dual eligible individuals in a Special Needs Plan (SNP) and individuals enrolled in MLTSS.

Stakeholder groups involving behavioral health service recipients, family members, providers, trade organizations and consumer groups were involved with the input related to the planning process. Both DMHAS and DMAHS are meeting with these stakeholders and provide updates that are within the allowable parameters of the process.

National Core Indicators-Aging and Disabilities (NCI-AD) Initiative

The NCI-AD Initiative, in which New Jersey is participating, is designed to support states' interest in assessing the performance of their programs and delivery systems, and improving services for older adults, individuals with physical disabilities, and caregivers. New Jersey will be able to use the NCI-AD initiative as another tool in determining if NJ FamilyCare members on MLTSS have full access to the benefits of community living and are able to receive services in the most integrated setting.

NCI-AD is a collaborative effort among the National Association of States United for Aging and Disabilities (NASUAD), Human Services Research Institute (HSRI), and the National Association of State Directors of Developmental Disabilities Services (NASDDDS). Like the developmental disability service system's National Core Indicators (NCI), NCI-AD's primary aim is to collect and maintain valid and reliable data that give states a broad view of how publicly-funded services impact the quality of life and outcomes of service recipients.

Through the NCI-AD initiative, the DHS will begin collecting data on June 1, 2015 and will have until May 31, 2016 to send their final data to HSRI. The DHS will be surveying a random sample of at least 400 older adults and individuals with physical disabilities accessing publicly-funded services through MLTSS and/or other state-funded programs, as well as older adults served by Older Americans Act programs. The survey instrument includes a background survey, which gathers data about the consumer from agency records, and an in-person survey, which includes subjective satisfaction-related questions that only can be answered by the consumer, and objective questions that can be answered by the consumer or, if needed, a proxy.

New Jersey will have a draft report on the survey results no later than October 2016, which is over two years before the state has to come into full compliance with the new rule. This deadline will give New Jersey enough time to use the relevant information as another measure of the state's level of compliance with the HCBS setting and person-centered planning (PCP) requirements.

Site-Specific Remedial Action

The DHS currently is in the final stages of preparing to conduct a compliance review of the HCBS settings through the lens of the new federal requirements. While the residential settings licensed under NJAC 8:36 that provide HCBS to MLTSS members will receive a self-assessment

survey to demonstrate their level of compliance, the DHS is conducting its own evaluation of the HCBS service providers licensed under NJAC 10:44A, NJAC 10:44B and NJAC 10:44C since it serves as the licensing and survey agency.

Since the state's findings with regard to the site-specific assessments of the individual HCBS settings for the MLTSS and the CCW programs are not yet available, the DHS is prepared to incorporate another public notice and input process with the findings at that time. The DHS also will provide specific remedial action and milestones as necessary for achieving compliance by March 17, 2019. Unannounced surveys for a percentage of the provider-owned or controlled residential settings will be conducted to validate the self-assessments. The Statewide Transition Plan (STP) will be modified accordingly.

Summary of Regulatory Changes

Through the creation and usage of a uniform crosswalk tool to review the State's compliance with the HCBS setting requirements, the DHS completed its evaluation of the licensing regulations governing MLTSS in the NJCW and the CCW in this STP. To achieve compliance with the federal HCBS requirements, the state believes it will need to take the actions described below.

Managed Long Term Services and Supports (MLTSS)

The DHS, in collaboration with the NJ Department of Health (DOH) has determined that amendments to NJAC 8:36 need to be adopted to bring the licensed HCBS provider-owned or controlled residential settings into compliance with the new federal requirements. Since NJAC 8:36 is set to expire in 2020, the state will need to move up the rulemaking process to come into compliance by March 17, 2019. For NJAC 8:43B, the state will need to promulgate new rules because they have expired.

In NJAC 8:36, the citations for the HCBS qualities related to visitors (individuals having the ability to have visitors of their choosing at any time); dining (having access to food at any time) and choice of roommate (individuals sharing units have a choice of roommate in that setting) need to be better defined to achieve compliance with 42 CFR §441.301 and 42 CFR §441.710. Although the New Jersey regulations speak to these HCBS qualities, their application is ultimately determined by the New Jersey facility's policies and procedures. It does not fully reflect the guidance of the CMS for HCBS provider-owned or controlled residential settings.

The state anticipates about a two and one-half year period to rewrite NJAC 8:36 and issue new regulations. Anticipating that the rulemaking process begins in 2015, it will run until mid-2018.

To promulgate new regulations for NJAC 8:43B, however, will require a longer time frame. The state will need about three years to reissue regulations for AFC with an anticipated start date on the assignment in 2015.

For programs licensed under NJAC10:44C (Community Residences for Persons with Head Injuries), DHS will pursue licensing and regulatory changes to bring the system into compliance with regard to physical location, to ensure the settings are truly community integrated; in the area of choice and independence, to ensure that individuals participate in their roommate selection and that there are comfortable accommodations for private visits; and in the area of resident rights to ensure that individuals have a lease/residency agreement.

The required regulatory changes will take up to three years to be completed.

Community Care Waiver (CCW)

DDD will undertake the following regulatory and licensing changes to reach full compliance with the HCBS standards.

For programs licensed under 10:44A – Community Residences for People with Developmental Disabilities, DDD will pursue regulatory and licensing changes as described above to bring the system into compliance in the area of physical location (settings located on the grounds of a public institution, settings that isolate individuals from the broader community of individuals who do not receive HCBS, and co-location of multiple provider-owned and controlled settings), as well as in the area of community integration (to ensure that settings do not prevent individuals from participating in the broader community of people who do not receive HCBS, and that individuals do not live apart from others who do not receive HCBS) and in the area of resident rights (to require lease-based housing).

For programs licensed under 10:44B – Community Care Residences, DDD will pursue regulatory and licensing changes to comport with current Social Security rules regarding representative payees, to ensure individuals' rights regarding control of their personal resources are met.

DDD anticipates these changes will require three years to complete.

Summary of Changes to State Standards and Policies

The DHS and Department of Children and Families (DCF) completed a review and analysis of their standards and policies for compliance with the HCBS setting requirements for inclusion in this STP. Under the NJCW, MLTSS and three pilot demonstrations, including the Autism Spectrum Disorder (ASD), Individuals with Intellectual/ Developmental Disabilities with Co-Occurring Mental Illness Diagnoses (ID/DD-MI) pilot and the Serious Emotional Disturbance (SED) pilot were analyzed. In addition, the DDD completed its review of the standards and policies for the CCW.

NJ Comprehensive Waiver Demonstration (NJCW)

The qualities of the HCBS settings and PCP are intrinsic to MLTSS and the three pilot demonstrations under the auspices of DCF. They are in the Special Terms and Conditions provided to the state by CMS when the NJCW was approved in October 2012.

With MLTSS, DHS took the CMS language and used it in its contract language with the managed care organizations (MCOs). PCP is central to what the MCOs incorporate into the care management of their members and is required in the MCO contract approved by CMS. In this managed care approach, the state holds the MCOs responsible for ensuring that the provisions under MLTSS are compliant with the new rule.

For the ASD, ID/DD-MI and SED programs, the standards and policies also are reflective of the compliance requirements of the HCBS setting requirements with services to be provided to enrolled youth in their own homes. In addition, the Children's System of Care (CSOC) is fully reflective of the person-centered planning requirements in the CMS rule.

Community Care Waiver (CCW)

DDD will undertake the following policy changes to reach full compliance with the HCBS standards.

For programs licensed under 10:44A – Community Residences for People with Developmental Disabilities, DDD will adopt formal policies regarding the establishment of settings on the grounds of a public institution, settings that isolate individuals from the broader community of individuals who do not receive HCBS, and settings that co-locate multiple programs for large numbers of people with disabilities. These policies will be enacted by July 1, 2016.

DDD also will adopt policies requiring settings to be located among private residences and retail businesses, assuring a participant's participation in roommate selection, and requiring lease-based housing. These policies will be enacted by July 1, 2016.

DDD will adopt policies to maximize the choice of housing options for individuals by creating incentives for the development of new community integrated housing, as described above. These policies will be enacted by July 1, 2016.

For programs licensed under 10:44B – Community Care Residences, DDD will revise its policies regarding placement to ensure participation in roommate selection, and to require individuals to live in lease-based housing. These policies will be enacted by July 1, 2016.

For day services, DDD will enact policies regarding the co-location of multiple programs and community integration opportunities in day programs as described above in order to avoid isolation of individuals and to maximize the opportunities for community participation, integration and individual choice. These policies will be enacted by July 1, 2016.

Ongoing Transparency and Public Input

New Jersey's STP will evolve as the state works to come into compliance with the HCBS setting requirements. It is the responsibility of the state to report to CMS on findings, remedial action and progress made between now and March 17, 2019. Any substantive changes to the STP will be posted for public input with a 30-day public comment period to ensure that stakeholders and consumers are kept informed and engaged throughout the process. The STP will be revised to incorporate public input and any additional federal guidance.

The STP represents New Jersey's commitment to demonstrating full access to the benefits of community living for individuals, and the opportunity to receive services in the most integrated and appropriate setting as required by the new federal rule. Many of the values are intrinsic to the development and implementation of the various initiatives under the NJCW and the CCW, as the state advances its long-term care reform efforts to promote HCBS for the benefit of the citizens of New Jersey.

The timeline starting on the next page provides an overview of highlights in New Jersey's STP:

Key Highlights toward Achieving Compliance (as of January 2015)

| Action Items | Timeline |
|---|------------------------|
| Identification of NJ Department of Human Services (DHS) Standards/Policies for Compliance Review: NJ Comprehensive Medicaid Waiver (NJCW), Special Terms and Conditions; Managed Long Term Services and Supports (MLTSS) Service Dictionary; Managed Care Organization Contract, Article 9; Self-Directed Day Services Policies and Procedures; Standards for Adult Day Programs; and Community Care Waiver (CCW) and Proposed Amendment. | Completed |
| Identification of Department of Children and Families (DCF) Standards/Policies for Compliance Review: NJCW, Special Terms and Conditions and Attachments CI and D; NJAC 10:73 Chapter 73 Case Management Services; NJ Children’s System of Care Youth and Family Guide; NJ CANS (Child Adolescent Needs and Strengths) Assessment Tool and NJ Wraparound Training (Values & Principles and Child Family Team Process) | Completed |
| Identification of NJ Department of Health (DOH) Residential Setting Licensing Regulations for Compliance Review: NJAC 8:36 and NJAC 8:43B | Completed |
| Identification of DHS Licensing Regulations for Compliance Review: NJAC 10:44A, NJAC 10:44B and NJAC 10:44C | Completed |
| Launch of HCBS Rules website at www.state.nj.us/humanservices/dmahs/info/ | Completed |
| Dissemination of Webinar on the “Basics of the HCBS Rules” to be available on YouTube | Completed |
| Conduct Crosswalk of State (DHS and DOH) Licensing Regulations for Internal Compliance Review of HCBS Rules | Completed |
| Conduct Crosswalk of HCBS State Standards/Policies for Internal Compliance Review | Completed |
| Outreach to Stakeholder Leadership Organizations | Ongoing |
| Creation of Self-Assessment for HCBS Settings Licensed under NJAC 8:36 | January 2015 |
| Dissemination of Self-Assessment via SurveyMonkey to HCBS Settings Licensed under NJAC 8:36 | February to April 2015 |
| Assessment by DHS to be Conducted of HCBS Settings Licensed under NJAC 10:44A, NJAC 10:44B and NJAC 10:44C | February to April 2015 |
| State Crosswalk Assessment Analysis and Report of Compliance (Licensing and Policies/Standards) | Completed |
| Draft Statewide Transition Plan is Posted at www.state.nj.us/humanservices/dmahs/info/ for Public Comment | January/February 2015 |
| Usage of Press release, Social Media and Newspaper Advertising to Generate Input | January 2015 |

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| Two Public Input Sessions for Consumers/Stakeholders | End of Jan./Feb. 2015 |
| 30-Day Public Notice and Public Comment Period | Jan./Feb. 2015 |
| Statewide Transition Plan is due to the Centers for Medicare & Medicaid Services (CMS) | March 17, 2015 |
| Due Date for Return of Self-Assessments Licensed under NJAC 8:36 | April 2015 |
| DHS Completes its Assessments of HCBS Settings Licensed under NJAC 10:44A, NJAC 10:44B and NJAC 10:44C | April 2015 |
| Licensed Provider Assessment Analysis and Report of Compliance | June 2015 |
| Determination of Heightened Scrutiny for Residential Providers | June to Aug. 2015 |
| Unannounced Surveys Conducted on Percentage of Residential Settings Licensed under NJAC 8:36 and Adult Family Care providers | June 2015 onward |
| Remedial Actions on Licensed Providers | To be determined. |
| Rulemaking process for NJAC 8:36 and NJAC 8:43B: amendments to NJAC. 8:36 and promulgation of NJAC 8:43B | 2015 to 2018 |
| Rulemaking process for NJAC 10:44A, NJAC 10:44B and NJAC 10:44C | 2015 to 2018 |
| Policy adoption for programs licensed under 10:44A | 2015 to July 1, 2016 |
| Policy adoption for programs licensed under 10:44B | 2015 to July 1, 2016 |
| Policy adoption for day services | 2015 to July 1, 2016 |
| Compliance Monitoring of Residential Providers with Sanctions and Disenrollment | To be determined. |
| New Jersey reaches full compliance with the HCBS final regulation's setting requirements. | On or before March 17, 2019 |

Abbreviations and Acronyms

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| Administrative Services Organization/Managed Behavioral Health Organization | ASO/MBHO |
| Adult Family Care | AFC |
| Alliance for the Betterment of Citizens with Disabilities | ABCD |
| Assisted Living Program | ALP |
| Assisted Living Residence | ALR |
| Autism Spectrum Disorder | ASD |
| Care Management Organization | CMO |
| Centers for Medicare & Medicaid Services | CMS |
| Children's System of Care | CSOC |
| Community Care Waiver | CCW |
| Community Care Residences | CCR |
| Community Residential Services | CRS |
| Comprehensive Personal Care Homes | CPCH |
| Division of Aging Services | DoAS |
| Division of Developmental Disabilities | DDD |
| Division of Disability Services | DDS |
| Division of Medical Assistance and Health Services | DMAHS |
| Division of Mental Health and Addiction Services | DMHAS |
| Home and Community-Based Services | HCBS |
| Human Services Research Institute | HSRI |
| Individuals with Intellectual/Developmental Disabilities and a co-occurring Mental Illness | ID/DD-MI |
| Integrative Community Services & Supports | ICSS |
| Managed Care Organization | MCO |
| Managed Long Term Services and Supports | MLTSS |
| Medical Assistance Advisory Council | MAAC |
| National Association of States United for Aging and Disabilities | NASUAD |
| National Core Indicators-Aging and Disabilities | NCI-AD |
| New Jersey Administrative Code | NJAC |
| New Jersey Comprehensive Waiver Demonstration | NJCW |
| NJ Child Adolescent Needs and Strengths Assessment Tool | NJ CANS |
| NJ Department of Children and Families | DCF |
| NJ Department of Health | DOH |
| NJ Department of Human Services | DHS |
| NJ Housing & Mortgage Finance Agency | HMFA |
| Office of Program Integrity and Accountability | OPIA |
| Person-Centered Planning | PCP |
| Plan of Care | POC |
| Serious Emotional Disturbance | SED |
| Statewide Transition Plan | STP |
| Supportive Housing Connection | SHC |
| Traumatic Brain Injury | TBI |