

# STP Issues of Note

Issue	Draft Plan Language & Feedback	Revised Plan Language
<b>Removal from current living arrangement</b>	<p>The draft plan was silent on what would happen to recipients whose current, publicly funded, living arrangement did not meet the STP requirements. Many families feared that their loved ones would be removed, or made homeless, if the current placement did not meet plan requirements.</p>	<p><b>The revised plan clarifies that all existing settings will be assessed by DHS for compliance with the HCBS Final Rule. If it is determined that an existing site is not compliant, the department will work with the agency/housing providers and residents to develop site-specific remediation plans.</b> For existing settings, <i>the size of the site, in and of itself, will not be the sole determinant of compliance</i> with the Final Rule. Based on DHS' preliminary assessment of existing sites, <i>99% of residents will not experience displacement.</i></p>
<b>Day Activities</b>	<p>The draft plan stated that recipients of HCBS must spend 75% of their day activities <i>in the community</i> in settings with people who are not recipients of HCBS.</p>	<p><b>The revised STP requires that individuals in day programs spend the majority of their time engaging in integrated activities with the broader community of non-HCBS recipients inside and/or outside of the day facility.</b> DHS will work with the contracted provider agencies to develop policies and protocols in this regard. Further, the STP was revised to reflect that certification of day programs will include the review of plans from day providers to demonstrate how meaningful community engagement will be provided.</p>
<b>Congregate Residential Setting</b>	<p>The draft plan indicated that new congregate residential settings will have a service level of four (4) recipients and may be expanded to six (6) where medical care is provided. Comments indicated that some people were not clear that this provision applies to new settings only, and will not be applied retroactively, so the STP clarified this.</p>	<p>The STP was revised to clarify that the development of any new congregate housing settings will need to comply with the guidelines on group home size contained in the federal Money Follows the Person Demonstration Program. <b>However, NJ will allow group homes with a service level up to 50% higher than the standard in the federal MFP program in homes where medical care is provided, with prior approval from DHS.</b> These guidelines align with DDD's current practice and the HCBS Final Rule. The STP also clarifies that the provision applies to new settings only and will not be applied retroactively to existing settings.</p>

DDD Program Related

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DDD Program Related	<p><b>Non-Congregate Residential Setting Capacity</b></p>	<p>The draft plan stated that in new settings where more than 4 residents are served, no more than 25% of the units could be specifically set aside for individuals with disabilities. Comments indicated that some people were not clear that this provision applies to new settings only, and will not be applied retroactively, so the STP clarified this.</p>	<p><b>The revised STP clarifies that the provisions will apply to new settings, only, and not be applied retroactively to existing settings.</b></p>
	<p><b>Farmsteads</b></p>	<p>Farmsteads are seen as included in the provisions around residential setting that have the effect of isolating people receiving HCBS from the greater community. DHS does not fund any “farmstead” or disability-specific farm communities. Families from across the country wanted Farmsteads approved in the NJ (and other state’s) plan to protect the option for this placement nationwide.</p>	<p><b>The revised STP states that when considering any new development, DHS will consider proposals for settings that comport with the HCBS final rule</b> and with any other applicable state and federal regulations.</p>
Aging Services Related	<p><b>Assisted Living Lease Agreements</b></p>	<p>The draft plan did not include reference to Assisted Living Lease Agreements but, commenters felt that current language on landlord-tenant law in Assisted Living (AL) regulation does not effectively afford protections to residents similar to the state’s landlord tenant laws as is now required under the new federal rule.</p>	<p>The revised STP provides clarity on eviction processes and appeals as required by the HCBS final rule. <b>Necessary steps will be taken to ensure that an agreement between a facility and each resident is in place and that the document provides protections that address eviction processes and appeals comparable to those provided under New Jersey’s landlord tenant law.</b> This determination was made in collaboration with the NJ Department of Health (DOH), the state agency responsible for licensing Assisted Living (AL) Residences, Comprehensive Personal Care Homes (CPCH) and AL Programs.</p>