

STATE OF NEW JERSEY

Statewide Transition Plan

Submitted by the NJ Department of Human Services

April 17, 2015

The Statewide Transition Plan outlines to the Centers for Medicare & Medicaid Services (CMS) how New Jersey will meet compliance with federal Home and Community Based Settings regulations by 2019. 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.

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For additional detail, please refer to Appendix B: 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.

Introduction

New Jersey is required to submit a Statewide Transition Plan (STP) to bring the state into compliance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule regarding Home and Community Based Services (HCBS) for Medicaid-eligible enrollees. The STP describes how Medicaid funding in the NJ 1115 Comprehensive Waiver Demonstration (NJCW) and the 1915 (c) Community Care Waiver (CCW) will be used to meet the needs of individuals receiving long term services and supports in their home or community rather than in an institutional setting.

Staff from the Department of Human Services (DHS), which is charged with developing and implementing the STP on behalf of several state agencies and offices, prepared a draft STP that was released publicly on January 26, 2015. The public comment period closed on February 27, 2015. Over 1,000 public comments were received in the form of letters, emails, phone calls and testimony at the two public input sessions on February 4 and 19, 2015. The draft STP produced strong emotional and operations-based opposition that opened up an important dialogue and resulted in constructive and useful feedback. In addition, staff in each of the affected divisions meets regularly with providers, consumers and their families for ongoing input, which is essential to the continued shaping of this initiative. As such, this revised version of the STP includes several recommended changes that are detailed in the attached Appendix A.

The DHS has highlighted below the most significant revisions made as a result of public input. It is important to note that the state expects that between now and the implementation deadline of the HCBS rules in March 2019, the Transition Plan will evolve to accurately reflect New Jersey's ongoing efforts to promote home and community based care for eligible residents, in accordance with state and federal regulations.

With respect to activities related to individuals participating in programming through the Division of Developmental Disabilities:

- Day Activities: The DHS revised its STP to require 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*. DHS will work with the contracted provider agencies to develop policies and protocols in this regard. Further, the STP has been revised to reflect that certification of day programs will include the review of plans from providers to demonstrate how meaningful community engagement will be provided.
- Congregate Residential Setting: The DHS has modified the STP 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. These guidelines align with DDD's current practice and the HCBS final rule.

All *existing* settings will be assessed by DHS for compliance with the HCBS Final Rule. If, as a result of that assessment, DHS determines that an existing site is not compliant, the department will work with the agency/housing providers and residents to develop site-specific remediation plans. For existing settings, *the size of the site, in and of itself, will not be the sole determinant of compliance* with the Final Rule. Based on DHS' preliminary assessment of existing sites, *there should be no change in residential placement due to the STP for approximately 99% of individuals in existing sites.*

- Non-Congregate Residential Setting Capacity: The DHS has modified the STP to clarify that all *new* non-congregate residential settings developed will comply with the standards of integrated housing as defined in the federal U.S. Department of Housing & Urban Development (HUD) 811 Project-Based Rental Assistance Demonstration program. These standards align with DDD's current practice and the HCBS Final Rule.

All *existing* settings will be assessed by DHS for compliance with the HCBS Final Rule. If, as a result of that assessment, DHS determines that an existing site is not compliant, the department will work with the agency/housing providers and residents to develop site-specific remediation plans. For existing settings, *the size of the site, in and of itself, will not be the sole determinant of compliance* with the Final Rule. Based on DHS' preliminary assessment of existing sites, *there should be no change in residential placement due to the STP for approximately 99% of individuals in existing sites.*

With respect to activities related to individuals participating in programming for Managed Long Term Services and Supports:

- Assisted Living Lease Agreements: The DHS has revised the STP to provide further clarity on eviction processes and appeals as required by the HCBS Final Rule. *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.* 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.

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 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 April 15, 2011 and May 3, 2012.

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.

The Statewide Transition Plan (STP) outlines the steps that New Jersey will take to comply by March 17, 2019. CMS may approve such transition plans for a period of up to five years to ensure full compliance and ensure no individuals are left without services. Medicaid reimbursement for HCBS settings that do not meet federal guidelines will continue from the federal government during the transition period as New Jersey moves towards compliance.

Overview of Federal Mandate

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.

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, the opportunity to furnish and decorate one's unit, and access to food and 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 Person Centered Planning (PCP) process needs to be driven by the individual, help the individual to direct his/her process to the best possible extent, and be 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

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).

New Jersey confirmed with CMS that the state must comply with the new rule for the Comprehensive Medicaid Waiver (CMW) in addition to 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 DHS in a letter received on December 4, 2014.

The State of New Jersey, through DHS, 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 CMW. The NJ Department of Children and Families (DCF), Children's System of Care also is engaged in the STP through its participation in the CMW.

Assessment and Review

Systemic Assessment of Medicaid Waiver Programs/Services

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 examined 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.

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 were sent 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.

Below are the New Jersey programs and/or services that will be impacted by CMS' Final Rule on HCBS:

Managed Long Term Services and Supports (MLTSS)

MLTSS 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 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.

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 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. 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 people 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

The DHS, through the Center for Health Care Strategies, electronically sent the MLTSS providers licensed under NJAC 8:36 a self-assessment on February 18, 2015. A copy of the self-assessment tool is posted at <http://tinyurl.com/HCBSsurvey>. The DHS worked collaboratively with the major industry associations, including LeadingAge New Jersey and the Health Care Association of New Jersey, on the tool's development and implementation. 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 mandatory self-assessment was due on April 16, 2015.

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 to 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

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.

- Staff training curriculum and materials
- Training Schedules
- 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. Any provider unwilling or unable to complete a self-assessment and achieve compliance within the five-year transition period will be terminated as an 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 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 self-reported. A plan then will 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 Comprehensive Personal Care Homes (CPCH facilities tend to be built pre-1993 as residential/boarding homes) do not often meet the physical plant standards of new AL construction. They are licensed by DOH to provide room and board and to assure that AL services are available when needed. 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, which is acceptable under this Transition Plan.

Division of Developmental Disabilities' 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. 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 that includes: 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 with individual employment support, supported employment with 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 fully integrated in their communities.

Community Care Waiver (CCW)

Apart from the above-mentioned CMW 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).

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

Services provided through the CCW² 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

² The CCW was due to expire on September 30, 2013, but it has been extended indefinitely. The DDD continues to work with CMS on its full renewal.

Division of Mental Health and Addictions' Interim Management Entity (IME)

In July 2015 the Division of Mental Health and Addiction Services will launch a 'single point of entry' for individuals with substance use disorders who are uninsured or on NJ FamilyCare. Rutgers' University Behavioral Health Care will serve as an Interim Managing Entity (IME) that will coordinate services and care for this population and their families. A 24-hour hotline with supervised, certified call center staff will be in place for individuals/families to call. Staff will perform a preliminary assessment of the caller's need and make appropriate referrals to addiction treatment service providers. The service provider will do more detailed needs assessments, develop and implement a plan of care, and carefully monitor treatment progress. As patient needs change, plans will be revised appropriately to ensure recovery.

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 targeted programs that are operated by the DCF under the NJ Comprehensive Waiver (CMW) are 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 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.

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
- NJ Wraparound Training (Values & Principles and Child Family Team Process)

The settings for the ID/DD-MI, SED and ASD initiatives under the CMW are in the homes of the youth, so site specific assessments are not required.

Systemic Assessment for non-Medicaid Waiver Programs/Services

Division of Developmental Disabilities (DDD)

As a part of its systems assessment, the 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. DDD will use a settings assessment tool that will incorporate the tenets of the HCBS Final Rule, as well as collect information on consumer experience in the setting. DDD will share the settings assessment tool with stakeholders prior to the start of the assessment process.

Individual site assessments will be completed by July 31, 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 that will be performed according to a remedial plan developed with DDD and the provider agency.

In addition to the policy and licensing review contained in the State Crosswalk Results, and in anticipation of the HCBS Final Rule, DDD has adopted and will adopt policies to maximize community integration. All existing and future housing settings must comport with the requirements of the HCBS Final Rule. *For existing sites, the size of the site, in and of itself, will not be the sole determinant of compliance.* If DHS identifies areas of non-compliance, it will work closely with housing providers and the residents to develop a site-specific remediation plan that brings the setting into compliance with the HCBS Final Rule. These guidelines align with DDD's current practice.

DDD has adopted a policy requiring that all *new* congregate settings have a level of service in accordance with the standards for group home size in the federal Money Follows the Person (MFP) Demonstration Program, in which DDD participates. DDD's policy also allows for the expansion of the level of service to a maximum of 50 percent larger than the standard for group home size in the MFP program, where required for programmatic reasons (such as the need for nursing in the home) but subject to prior review and approval by DDD.

DDD also has adopted a policy requiring that all *new* integrated (non-congregate) settings align with the definition of integrated housing contained in the current federal U.S. Department of

Housing & Urban Development (HUD) 811 Project-Based Rental Assistance (PRA) Demonstration program. These guidelines align with the HCBS Final Rule. These policies will cover both licensed settings and unlicensed, independent residential settings where individuals receive HCBS services through the CCW or the Supports Program. (Please note that private residential homes where individuals own their own homes, or where they live with a family member, are not governed by these policies.)

In addition, DDD will consider revisions to 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 standards where appropriate, as well as its policies, as described above for new settings.

In order to meet compliance with the CMS guidance for integration with the community, the DDD will consider adjusting its policies or regulatory requirements for existing housing to ensure that the settings prevent the isolation of individuals receiving HCBS from individuals not receiving those services in the broader community. It also will ensure that individuals do not live apart from people not receiving those services. In addition, the DDD will formally adopt a policy requiring settings to be located in areas that offer opportunities for community engagement, that are among other private residences and retail businesses and other amenities, as congruent with the area and region. DDD will incorporate this policy into its current approval of sites prior to lease or purchase for development.

DDD currently does not require provider-owned or controlled settings to offer residents leases or legal agreements that afford all of the rights and responsibilities guaranteed under New Jersey landlord-tenant law, including eviction. In order to reach 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 consider modifications to ensure lease-based housing. Until such changes take effect, DDD will formally adopt a policy requiring that all individuals who are receiving HCBS and living in licensed settings or unlicensed independent housing must live in lease-based housing. Leases must provide all the rights and responsibilities accorded by New Jersey landlord-tenant 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 to the areas listed above, the DDD noted the HCBS standard requiring that the state be able to offer individuals a choice from among a variety of housing options, including options in settings that are not disability-specific. An assessment of the DDD's current housing shows it 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 congregate group home settings. Based on the DDD's current pipeline of new projects, it anticipates licensing an additional 750 beds in the next 18 months, none of which currently are projected to be supported living beds. The 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. In order to balance its system, 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 neighbors 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 the 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, the DDD will support the use of state-only incentives to the development of programs located in integrated settings that meet the definition of integration in the current federal HUD 811 Project-Based Rental Assistance (PRA) Demonstration program. This direction will enhance the ability of individuals receiving HCBS services to have a choice among a full spectrum of housing resources. The DHS will continue to support with operating and service funding the development of new group home settings that comply with the HCBS Final Rule and with DHS policies.
- 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 that meets the definition of integration used in the current federal HUD 811 Project-Based Rental Assistance (PRA) Demonstration program.

This investment of state-only funds reflects the Administration's and 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. In addition, the DHS will consider for support new congregate settings with operating and service funding, where those new congregate settings comply with the HCBS Rule and with the DHS policies, based on availability of resources. The ultimate goal of these policies is to create a truly integrated and balanced system, where individuals may choose from among a variety of compliant housing settings, including non-disability-specific settings.

Day Services

A systemic assessment of DDD policies regarding day services as contained in its Standards for Adult Day Programs and 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 choice and integration in their day service activities, the standards required clarification in the areas of avoiding individual isolation and offering increased community participation and integration for individuals receiving HCBS services. To remediate this issue, the 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, the DDD will focus on competitive employment activities for all individuals.
- For individuals whose person-centered plan indicates the need for day services, 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 in a model that maximizes community integration and ensures that individuals have the opportunity to interact with the broader community of non-HCBS recipients, and to participate in activities that are not solely specifically designed for people with disabilities, but are designed for the broader community of non-HCBS recipients. Individuals should spend the majority of their

time in day programs in activities they choose, that reflect their individual interests and goals. As part of this model, community integration may include activities that take place in the day programming facility but that offer meaningful opportunities for interaction with the broader community of non-HCBS recipients, as well as activities that take place outside of the day programming facility, in the broader community.

- There will be no overall facility schedule for participants; each individual should have a unique schedule reflecting their interests and goals.
- The 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 that the individuals they serve are integrated in the community and offer meaningful opportunities for individuals to pursue their own goals and activities in the broader community of non-HCBS recipients, according to the policies stated above.

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. While day programming and services may not be based at the same site in which individuals live, individuals may work or pursue entrepreneurial activities at home, and may engage in socialization and inclusion activities, governed by the same rules and requirements that may apply to the broader community of non-HCBS recipients. Programming that is co-located must be transitioned to compliance by June 30, 2017.

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 in 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 and providing proof of compliance. In instances for which the state was not in compliance, it will consider adjusting policies, statutes and/or regulations, as appropriate. 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.

The crosswalk is listed in the Table of Contents as Appendix B and can be found online at:

http://www.state.nj.us/humanservices/dmahs/info/STP_Crosswalk.pdf

Stakeholder Engagement

Mandate

The federal 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 draft transition plan also must be available for public comment and modified based on the feedback, as appropriate. CMS expects 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 was 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.

In addition to the approaches detailed above, the DHS has been engaged in a process of system reform for more than three years. As a part of this system reform, it has developed a system of continuous dialogue and feedback from stakeholders, including providers, individuals, families and other members of the community. Communication has included in-person presentations, webinars, conference calls, as well as regular meetings with consumer groups, family groups, and provider groups. Members of the community can provide feedback at these venues, as well as through a dedicated email linked on the DDD webpage.

Public Notice

The DHS began a 30-day public comment period for the draft version of the STP on January 26, 2015 that ended on February 27. During the comment period DHS held two formal public input sessions on February 4 and February 19, 2015. The session originally set for January 27 had to be postponed until February 19 because of inclement weather.

Statements of public notice ran on the Department's website 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 first statement of public notice ran in the three newspapers on January 23. It then was revised and ran again in the three newspapers on January 30 since one date had to be changed from January 27 to February 19. The STP was also posted at www.state.nj.us/humanservices/dmahs/info/ on the DHS website on January 26 to coincide with the public comment period.

At the February 4th public input session, there were about 40 individuals who attended and nine individuals who provided testimony. The February 19th public input session was attended by approximately 300 individuals with 40 individuals who presented testimony. While not everyone was able to present his/her testimony because of time limitations, everyone was encouraged to submit their comments in writing. 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. It was noted that all comments are viewed equally, whether they were presented at a public input session or sent in during the 30-day public comment period.

The majority of the questions and comments at both sessions centered on three proposed DDD requirements in the draft STP: (1) the modification to the DHS 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); (2) the modification to the DHS regulatory and licensing requirements, as well as its policies, to ensure that in non-congregate settings no more than 25 percent of units are specifically set aside for individuals with disabilities, and (3) the requirement to the DDD facility-based day programs that 75 percent of the time spent by individuals at the facility need to be spent in the community.

Public Comments

Included in the STP is 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. While the vast majority of the comments were from families of individuals with developmental disabilities, there also were comments from many stakeholder groups and service providers. Some of the represented organizations included: The ARC of New Jersey; AARP New Jersey; Alliance for the Betterment of Citizens with Disabilities; Association for the Multiple Impaired Blind; Autism Speaks; Autistic Self Advocacy Network; Coalition for Community Choice; Family Voices; Health Care Association of NJ; National Senior Citizens Law Center; New Jersey Hospital Association; New Jersey Association of Community Providers; New Jersey Association of Counties; New Jersey Statewide Family Support Planning Council; New Jersey Statewide Self Advocacy Network; New Jersey Association of Mental Health and Addiction Agencies; Supportive Housing Association of NJ and Statewide Parent Advocacy Network.

Any comments that were duplicated or that addressed the same topic were summarized and included in one statement. The state has posted its final STP on the DHS website, including any modifications based on public input.

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 on the following page provides an overview of highlights in New Jersey's STP.

Key Highlights toward Achieving Compliance (as of April 2015)

Action Items	Status and Due Date
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 10/14
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 10/14
Identification of NJ Department of Health (DOH) Residential Setting Licensing Regulations for Compliance Review: NJAC 8:36	Completed 10/14
Identification of DHS Licensing Regulations for Compliance Review: NJAC 10:44A, NJAC 10:44B and NJAC 10:44C	Completed 10/14
Launch of HCBS Rules website at www.state.nj.us/humanservices/dmahs/info/	Completed 12/14
Dissemination of Webinar on the "Basics of the HCBS Rules" to be available on YouTube	Completed 01/15
Conduct Crosswalk of State (DHS and DOH) Licensing Regulations for Internal Compliance Review of HCBS Rules	Completed 12/14
Conduct Crosswalk of HCBS State Standards/Policies for Internal Compliance Review	Completed 12/14
Outreach to Stakeholder Leadership Organizations	Ongoing through 3/17/19
Creation of Self-Assessment for HCBS Settings Licensed under NJAC 8:36	Completed 01/15
Dissemination of Self-Assessment via Survey Monkey to HCBS Settings Licensed under NJAC 8:36	In progress, due 04/16/14
Assessment by DHS to be Conducted of HCBS Settings Licensed under NJAC 10:44A, NJAC 10:44B and NJAC 10:44C	April to July 2015
State Crosswalk Assessment Analysis and Report of Compliance (Licensing and Policies/Standards)	Completed 12/14
Draft Statewide Transition Plan is Posted at www.state.nj.us/humanservices/dmahs/info/ for Public Comment	Completed 1/26/15

Usage of Press release, Social Media and Newspaper Advertising	Completed 01/15
Two Public Input Sessions for Consumers/Stakeholders	Completed 02/15
30-Day Public Notice and Public Comment Period	Completed 02/15
Revise Statewide Transition Plan to Incorporate Public Feedback Where Appropriate	Completed 04/15
Statewide Transition Plan Submitted to the Centers for Medicare & Medicaid Services (CMS)	Completed 04/15
Licensed Provider Assessment Analysis and Report of Compliance	Not started, due August 2015
Unannounced Surveys Conducted on Percentage of Residential Settings Licensed under NJAC 8:36 and Adult Family Care providers	Not started, 06/15 onward
Remedial Actions on Licensed Providers	To be determined based on results of assessments
Review of Any Rulemaking Activity for NJAC 8:36	Ongoing 2015 to 2018
Review of Any Rulemaking Activity for NJAC 10:44A, NJAC 10:44B and NJAC 10:44C	Ongoing 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, 2017
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

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

Appendix A: Summary of Public Comment

The following is a summary of the public comments collected in response to New Jersey's draft Statewide Transition Plan (STP). The NJ Department of Human Services (DHS) received comments from approximately 1,000 stakeholders during its 30-day public comment period from January 26 to February 26, 2015.

The DHS reviewed each commenter's recommendation(s) and these comments and their responses are reported below. The DHS has ensured that all those who commented were included. During the public comment period, the DHS held two public input sessions on February 4 and 19, 2015. Public testimony was taken and received in writing with regard to these events. Public comment also was received by email, parcel post (and over the phone in certain instances).

The unique comments were separately addressed and the same concerns were answered together since many commenters shared the same issues. Many commenters also included multiple issues in their letters, emails and testimony but the DHS counted each issue as a separate comment in terms of the total input on each issue. Some commenters sent the same written input multiple times. The numbers of commenters per issue is therefore approximate.

While some commenters referenced page numbers in the draft STP, these issues represented larger concerns with regard to the following core issues that drew the majority of the input:

(1) modification to the DHS 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); (2) modification to the DHS regulatory and licensing requirements, as well as its policies, to ensure that in *new* non-congregate settings, no more than 25 percent of units will be specifically set aside for individuals with disabilities; (3) requirement to the DDD facility-based day programs that 75 percent of the time spent by individuals at the facility need to be spent in the community; and (4) support for the farmstead or disability-specific farm community saying that such a residential setting does not have the effect of isolating people receiving HCBS from the greater community.

About 40 commenters supported the draft STP in its entirety, including all the draft provisions mentioned in the previous paragraph. The DHS also received several comments concerning issues outside of the scope of the STP. They include, but are not limited to these topics: Managed Long Term Services and Supports (MLTSS) and nursing home placement for people with developmental disabilities, increased minimum wage for those persons with an intellectual disability/developmental disability (II/DD); funding for housing and how NJ Housing and Mortgage Finance Agency (HMFA) will operate through the Supportive Housing Connection; Danielle's Law; money management for individuals; program day rates; recommendation to set minimum standards to train all workers in community settings; recommendation to mandate

psychiatrists take courses to properly care for the needs of those individuals with ID/DD; recommendation that every hospital have a behavioral health unit; recommendation that DDD be notified of each behavioral visit to the ER and increased capacity for MLTSS.

This summary is organized in the following manner: by comments for which the DHS revised the STP and public comments that did not result in changes to the STP.

Public Comments that Resulted in Changes to the Statewide Transition Plan

Approximately 660 commenters disagreed with the requirement in the draft STP to the DDD facility-based day programs that 75 percent of the time spent by individuals at the facility need to be spent in the community.

DHS Response: DHS has revised the STP to reflect that all facility-based day settings serve as a hub and central meeting location. DHS has revised the previous component in the STP that required individuals to spend at least 75 percent of their time in day programming; it had required them to engage in activities only in the community where they would have the opportunity to interact with people who are not HCBS recipients, as well as people who are HCBS recipients. The STP now requires individuals in day programs to spend the majority of their time engaging in activities in the community in which they will have the opportunity to interact with people who are not HCBS recipients, as well as people who are HCBS recipients. In addition, DHS has revised the STP to include, in its definition of engagement in activities in the community, activities that may be held at a day facility but in which both HCBS recipients and non-recipients participate. DHS will develop policies and protocols for these community engagement activities.

The HCBS Transition Plan also has been revised to reflect that certification of day programs will include review of plans from day providers to demonstrate how meaningful community engagement will be provided in compliance with the HCBS Final Rule, with DHS policies, and with individuals' person-centered plans.

Approximately 400 commenters disagreed with the modification to the DHS 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).

DHS Response: DHS has modified the STP to emphasize that all settings, existing and new, must comply with the CMS Final Rule. The site-specific assessments to be conducted by DDD will determine whether each existing setting complies with the Final Rule. For existing sites, the size of the site, in and of itself, will not be the sole determinant of compliance with the HCBS Final Rule. If, as a result of its assessment of an existing site, DHS identifies any areas of non-compliance, DHS will work closely with

housing providers and individuals living in the housing settings to develop a site-specific remediation plan to bring the setting into compliance with the Final Rule while minimizing any disruption to individuals. Based on its preliminary system assessment, DHS anticipates that approximately 99% of residents should not have to move.

In anticipation of the CMS Final Rule, and in order to ensure maximum community integration, DHS adopted a policy that is reflected in the STP that requires that all **new** congregate settings have a level of service in accordance with the standards for group home size in the federal Money Follows the Person (MFP) Demonstration Program in which DDD participates. However, DDD's policy also allows for the expansion of the level of service to a maximum of 50 percent larger than the standard for group home size in the MFP program, where required for programmatic reasons (such as the need for nursing in the home) and subject to prior review and approval by the DDD.

To ensure that recipients of HCBS services may choose from among a spectrum of settings that provide the maximum opportunity for community integration, the DDD will modify its regulatory and licensing requirements, where appropriate, to reflect these policies. These policies will cover both licensed settings and unlicensed, independent residential settings where individuals receive HCBS services through the CCW or the Supports Program. (Please note that private residential homes where individuals own their own homes, or where they live with a family member, are not governed by these policies.)

Approximately 350 commenters disagreed with the modification to the DHS regulatory and licensing requirements, as well as its policies, to ensure that in non-congregate settings, no more than 25 percent of units are specifically set aside for individuals with disabilities.

DHS Response: DHS has clarified in the STP that all settings, existing and new, must comply with the HCBS Final Rule. The site-specific assessments to be conducted by DDD will determine whether each existing setting complies with the HCBS Final Rule. For existing sites, the size of the site, in and of itself, will not be the sole determinant of compliance with the Final Rule. If, as a result of its assessment of an existing site, DHS identifies any areas of non-compliance, DHS will work closely with housing providers and individuals living in the housing settings to develop a site-specific remediation plan to bring the setting into compliance with the HCBS Final Rule while minimizing any disruption to individuals. Based on its preliminary system assessment, DHS anticipates that approximately 99% of residents should not have to move.

In anticipation of the HCBS Final Rule, and in order to ensure maximum community integration, the DDD adopted a policy that is reflected in the STP requiring that all *new* integrated (non-congregate) settings align with the definition of integrated housing contained in the current federal U.S. Department of Housing & Urban Development (HUD) 811 Project-Based Rental Assistance (PRA) Demonstration program.

To ensure that recipients of HCBS services may choose from among a spectrum of settings that provide the maximum opportunity for community integration, the DDD will modify its regulatory and licensing requirements, where appropriate, to reflect these policies. These policies will cover both licensed settings and unlicensed, independent residential settings where individuals receive HCBS services through the Community Care Waiver (CCW) or the Supports Program. (Please note that private residential homes where individuals own their own homes, or where they live with a family member, are not governed by these policies.)

Approximately 75 commenters expressed concern that there is a lack of accessible transportation, as well as funding for transportation, to facilitate day program community integration in which individuals spent 75 percent of their time in the broader community.

DHS Response: The day program requirements for community integration have been addressed and revised in the STP. The DHS believes that these issues are no longer applicable.

Approximately 70 commenters requested the opportunity to review and provide feedback on the site-specific assessment tool that the DDD will use to conduct its site assessments, and made suggestions on areas for inclusion in the site-specific assessment tools. Some commenters called for usage of components of the HCBS guide on the Final Rule developed by the Boggs Center, while other commenters objected to some components of the Boggs Center guide. In addition, several commenters called for the assessments to survey individuals on their experiences in HCBS programs, in order to ensure that the voices of individuals are reflected in the STP.

DHS Response: DHS has revised the STP to note that stakeholders will be provided the opportunity to review and provide feedback on the assessment tool before DDD conducts site assessments. DHS will consider all suggestions for inclusion in the site assessment tools. DHS has also revised the STP to explicitly state that individuals will be surveyed on their experiences in the STP and will be included in the site-specific assessments, in order to ensure that the experiences of HCBS recipients are reflected.

The state also wants to clarify that the site-specific tool uses exploratory questions provided by CMS in its guidance. The guidance was created to assist states in assessing whether the characteristics of HCBS, as required under the new rule, are present. While the tool mainly focuses on HCBS settings, a portion also looks at person-centered planning 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.

Approximately 120 commenters said that the STP needs greater consumer input and engagement with more outreach activity.

DHS Response: The STP has been revised to clarify that DHS has been engaged in a process of system reform for more than three years. As a part of this system reform, DHS has developed a system of continuous dialogue and feedback from stakeholders, including providers, individuals, families and other members of the community. Communication has included in-person presentations, webinars, conference calls, as well as regular meetings with consumer groups, family groups, and provider groups. Members of the community can provide feedback at these venues, as well as through a dedicated email linked on the DDD webpage.

The DHS used 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 DDD, started providing general information on the new federal regulations in meetings with providers and other stakeholder groups. Key stakeholder groups included the 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.

To further engage stakeholders and encourage 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 with a mailbox address to receive public comments by postal delivery as well as email.. Materials were posted as they were developed, which included YouTube videos of two versions of a presentation, one for consumers and one for providers; and a listing of Frequently Asked Questions (FAQs).

To recap, the state has abided by the CMS regulatory requirements for the STP with the 30-day public notice and comment period. The DHS began its 30-day public comment period for the draft version of the STP on January 26, 2015 and ended it on February 26. The comment period coincided with the two formal public input sessions that the DHS held on February 4 and February 19, 2015. The session originally set for January 27 had to be postponed until February 19 because of bad weather.

Statements of public notice ran on the Department's website 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 first statement of public notice ran in the three newspapers on January 23. It was then revised and ran again in the three newspapers on January 30 since one date had to be changed from January 27 to February 19. The STP also was posted on the DHS website on January 26 to coincide with the public comment period.

In addition, the DHS has availed itself of an important nationally recognized initiative for consumer input in which the HCBS setting requirements are incorporated. Since 2007,

the DDD has been participating in the National Core Indicators Project (NCI) that serves as the basis of its systems performance measurement system. The current set of NCI performance indicators includes approximately 100 individual, family, systemic, cost and health and safety outcomes.

New Jersey also will be participating in the National Core Indicators-Aging and Disabilities (NCI-AD) Initiative. This project 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 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. It will be an important measure in determining the state's level of compliance with the HCBS setting and person-centered planning (PCP) requirements.

Approximately 20 commenters expressed concern for individuals living in settings that may not be HCBS compliant with the rule, and how DHS will address their needs.

DHS Response: DHS has revised the STP to reflect that individuals will be included in site assessments as well as in the remediation plans for any existing settings found to have areas of non-compliance, and that DHS will strive to ensure a minimum of disruption for any individual living in a setting that may be non-compliant.

Approximately 10 commenters expressed concern that some of the timeframes for implementation of the STP were too aggressive and requested extensions of the timeframes.

DHS Response: The DHS has revised the STP to extend the deadline for the relocation of programs located on the grounds of developmental centers from June 30, 2016 to June 30, 2017; and extended the deadline for the transition of day programs co-located with residential settings from July 1, 2016 to June 30, 2017.

Approximately 10 commenters expressed the need for additional training for people with intellectual and developmental disabilities on the HCBS Final Rule. Commenters also expressed the need for a mechanism to assist individuals who may need or want to transition from settings that do not comply with the HCBS Final Rule.

DHS Response: DHS agrees with the need for ongoing training and technical assistance for stakeholders on the Final Rule and has clarified the STP to reflect the provision of that training. The STP was revised to reflect that individuals will be involved in the development of the remediation plans if they live in sites that are non-compliant with the Final Rule.

Four commenters pointed out that there is a need for landlord-tenant law protections in Assisted Living (AL) settings as required under the new federal rule. They said that AL settings

do not effectively afford protections to their residents similar to the state's landlord-tenant laws. The issue was also raised that NJ FamilyCare members moving from nursing facilities (NF) to an AL setting cannot participate in the MFP Demonstration Program because they do not have individual leases.

DHS Response: The STP was revised to state that whatever steps are necessary 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.

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.

A commenter requested clarification on whether policies regarding integrated housing applied to individuals living in their family homes.

DHS Response: The DHS has responded by saying that policies regarding community housing do not apply to individuals living with their families in their homes.

Additional Public Comments on the Statewide Transition Plan

Approximately 150 commenters voiced support for the farmstead or disability-specific farm communities saying that such a residential setting does not have the effect of isolating people receiving HCBS from the greater community.

DHS Response: DHS does not fund any "farmstead" or disability-specific farm communities. When considering new development, DHS will consider proposals for settings that comport with the HCBS Final Rule and with any other applicable state and federal regulations.

Approximately 60 commenters expressed concern that DHS would not have sufficient funding to carry out the STP.

DHS Response: Over the past five years, New Jersey has invested an unprecedented \$411 million in new funds in community services for consumers of the DDD. The DHS is confident that there are sufficient resources to implement the STP.

Approximately 50 commenters expressed concern that the New Jersey's STP is "more restrictive" than the federal Final Rule.

DHS Response: DHS believes that its STP is aligned with the standards and values of the federal Final Rule, and that the policies called for in it will help New Jersey achieve true community integration.

Approximately 40 commenters expressed concern with the requirement that residential and day settings operated by the same provider not be co-located on the same site.

DHS Response: The majority of day programs funded by DHS are not co-located with residential services. The DHS believes the requirement prohibiting co-location will ensure maximum community integration for individuals, and will provide assistance to stakeholders in any necessary transition, as stated in the STP.

Approximately 40 commenters asked that the DHS extend the 30-day public comment period so there is more opportunity to fully review and comment on the STP.

DHS Response: The DHS has followed the CMS regulatory requirements for the STP with the 30-day public notice and comment period. The public comment period ran from January 26 to February 26, 2015. There also will be ongoing opportunities for review and comment by stakeholders on the STP as various elements move forward in support of achieving full compliance by 2019.

Approximately 30 commenters expressed concern with the definitions of community and community integration in the STP. Comments on the definition of community ranged from a desire for a more flexible definition of community to the desire for a definition of community as disability-specific as opposed to the broader community of non-HCBS recipients.

DHS Response: The DHS believes that the definition of community included in the STP aligns with the values and expectations of the HCBS Final Rule for community integration, with national best practices on full community integration for people with disabilities, and with standards established in existing federal programs such as the HUD 811 Project-Based Rental Assistance Demonstration Program and the MFP Demonstration Program.

Approximately 25 commenters expressed concern with the requirement for leases in provider-controlled or operated housing licensed by DHS. A commenter requested that the STP detail how the continuation of housing and services will be addressed if an individual is evicted. A commenter also required clarification of how individuals under guardianship through the Bureau of Guardianship Services will access lease-based housing.

DHS Response: In order to ensure choice and control for individuals in their housing, the STP requires that HCBS recipients in community settings licensed under DHS have leases or legal agreements that provide all the rights and responsibilities guaranteed under New Jersey landlord-tenant law, including rights and responsibilities regarding eviction. As detailed in the STP, the DHS will provide training and technical assistance for all stakeholders on lease-based housing, including eviction rights and the continued provision of housing and services if an individual is evicted.

About 20 commenters stated that the STP does not follow the Olmstead decision, the American with Disabilities Act (ADA) and the New Jersey Law Against Discrimination (NJ LAD).

DHS Response: The DHS supports the mandates of the Olmstead decision, the ADA and NJ LAD and believes these obligations are fully reflected in the scope of the STP.

Approximately 10 commenters requested the establishment of a DDD Stakeholder Advisory Group to provide ongoing feedback throughout the implementation of the HCBS Transition Plan.

DHS Response: As described in the STP, the DDD has provided many opportunities for stakeholder input, both through individual presentations and webinars as well as various stakeholder groups that meet regularly. The DDD will continue to seek feedback and input through these existing venues and channels.

One commenter recommended that the DHS provide a mechanism to request on-site evaluations of AL settings in addition to the proposed random surveys if NJ Department of Health (DOH) resources prohibit evaluating every AL setting.

DHS Response: The DHS will work in collaboration with the DOH, the state regulating agency for AL settings, to conduct site inspections of a percentage of the NJAC 8:36-licensed facilities to ensure that the information from the providers is accurately self-reported in the self-assessment survey with regard to meeting compliance with the new rule.

One commenter voiced concerns with the self-assessment survey for residential HCBS settings in MLTSS, including the five-year federal timeframe for the settings to come into compliance, the analysis and reporting on the survey, and the relocation process for residents living in non-compliant settings.

DHS Response: It is the state's intent to reach full compliance with the new rule on or before the federal deadline of March 17, 2019. When the state's findings of the site-specific assessments of the individual HCBS settings for the MLTSS are available, the information will be made public. The DHS also will provide specific remedial action and milestones as necessary for achieving compliance. The STP will be modified accordingly.

One commenter requested clarification on N.J.A.C. 8:36 and the necessary regulatory changes to bring the licensed HCBS residential settings (ALRs, Comprehensive Personal Care Homes and AL Programs) into compliance with the new federal requirements.

DHS Response: The DHS will undertake a review of all applicable regulations to ensure consistency and compliance with the Statewide Transition Plan. For programs licensed under NJAC10:44C (Community Residences for Persons with Head Injuries), the DHS also may consider 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.

Three commenters thought the STP relies too much on the provider self-assessment surveys for the MLTSS settings to determine compliance with the new federal rule.

DHS Response: The DHS is committed to ensuring that the process, by which the state will determine the compliance of residential settings licensed by DOH under NJAC 8:36, is robust. The self-assessment survey to demonstrate level of compliance is the first step in this determination. The DHS will work in collaboration with the DOH to conduct site inspections of a percentage of the NJAC 8:36-licensed facilities to ensure that the information from the providers is accurately self-reported in the self-assessment survey. When the state's findings of the site-specific assessments of the individual HCBS settings for the MLTSS are available, the information will be made public. The DHS also will provide specific remedial action and milestones as necessary for achieving compliance.

Two commenters asked that the DHS wait until after the self-assessments of the HCBS settings are concluded before it begins the rulemaking process.

DHS Response: As stated previously, the DHS may consider future rulemaking to ensure compliance and consistency with the Statewide Transition Plan. Any future proposed rule changes will include an opportunity for public comment.

One commenter said that the STP needs more information regarding the process for provider remediation and/or consumer relocation, and that additional details are needed for monitoring and ensuring compliance through 2019 and beyond.

DHS Response: The DHS believes that it is premature to speak to provider remediation and the relocation of consumers at this time since the state's findings with regard to the assessments of all the HCBS settings are not yet available. In June 2015, the state expects to produce an analysis and report of compliance. As such, any remedial actions and relocation of consumers has yet to be determined.

The DHS expects New Jersey's STP to 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. The STP will be revised to incorporate public input and any additional federal guidance.

One commenter expressed concern that some HCBS settings for older adults may isolate.

DHS Response: Settings that do not comply with the federal rule will not be considered HCBS.

One commenter voiced concern that the STP failed to address the isolation of individuals as a result of the locked units for individuals with Alzheimer's disease and dementia.

DHS Response: The DHS expects that any locked units would be based on a client's individually assessed need, justified and documented in the PCP. It is important to note that these special units for MLTSS members are a critical component in an HCBS setting when controlled entry and exit are necessary for safety.

One commenter questioned the future of the dual eligible population with both Medicaid and Medicare benefits under the Administrative Services Organization (ASO).

DHS Response: Only the implemented reform measures included in the NJCW are included in the STP. Those include: MLTSS, Autism Spectrum Disorder (ASD) pilot, Intellectual/Developmental Disabilities and Co-Occurring Mental Illness Diagnoses (ID-DD-MI) pilot and the Program for Children diagnosed with Serious Emotional Disturbance (SED) pilot.

One commenter questioned why there was no reference in the STP to the Community Resources for People with Disabilities (CRPD) program under the New Jersey 1115 Comprehensive Waiver (NJCW) demonstration.

DHS Response: Beginning July 1, 2014, clients in the NJ FamilyCare waiver programs, including CRPD, Global Options for Long Term Care (GO), AIDS Community Care Alternatives Program (ACCAP) and Traumatic Brain Injury (TBI) Waiver were enrolled automatically in Managed Long Term Services and Supports (MLTSS).

One commenter said the same methods and standards across the DHS should be used to assess the sites affected by the new rule.

DHS Response: The DHS has chosen a variety of standard processes, which now are underway, to review the compliance of the provider-owned or controlled residential HCBS settings with the new federal requirements. The DHS would like to clarify that 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. However, both assessment methods are based on the same CMS guidance and use the exploratory questions provided by CMS. They were created to assist states in assessing whether the characteristics of Medicaid HCBS, as required under the new rule, are present.

Approximately two commenters requested that each point outlined in the STP calendar trigger a separate 30-day comment period.

DHS Response: As required by the Final Rule, DHS will hold a separate 30-day comment period for any future substantive change to the STP.

Two commenters recommended that Adult Day Health Services be included in the HCBS rule, at least ensuring that they provide person-centered planning.

DHS Response: Adult Day Health Services (ADHS) are 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 part of a 1915 (c), 1915 (i), 1915 (k) or an 1115 (a) demonstration Medicaid waiver. The DHS was told by CMS that Medicaid State Plan Services, including ADHS, do not figure into the HCBS setting requirements and the STP.

Several commenters requested that formatting and stylistic changes be made to the STP.

DHS Response: The DHS looked to other states for guidance and believe that the format and style of New Jersey's plan is comparable.

One commenter requested that the DHS explore the possibility for integration of community settings for individuals with intellectual and developmental disabilities in senior communities.

DHS Response: The DHS will consider proposals for new settings that comply with the HCBS Final Rule and with any other applicable federal or state rules and policies.

A commenter suggested that the DHS create smaller facilities for individuals with significant medical and/or behavioral needs.

DHS Response: The DHS believes that the policies called for in the STP will ensure the creation of facilities of appropriate size, and that the existing system of services provides supports for individuals with significant medical and/or behavioral needs.

A commenter requested that the HCBS Plan state that individuals whose health conditions preclude leaving their homes may participate in day services in their own homes.

DHS Response: The DHS will comply with all components of the Final Rule, which includes the ability for an individual to request a waiver of policy for specific clinical reasons, subject to inclusion in the person-centered plan, review by the DHS, and regular review of the waiver to ensure the restriction is still required.

One commenter requested that DDD consider ICF/IID settings that would allow day programs to be located on the grounds of institutions.

DHS Response: The DHS will consider proposals for new settings that comply with the Final Rule and any other applicable federal or state rules and policies.

A commenter suggested that the state provide rental vouchers for individuals who do not want to reside in a group home.

DHS Response: As the STP states, the DHS will provide a rental voucher for individuals who want to move out of a group home into a qualified integrated apartment setting. In addition, through its focus on the development of additional integrated settings in alignment with the federal HUD 811 Project-Based Rental Assistance (PRA) Demonstration program, the DHS will provide enhanced choices for individuals who prefer these integrated settings, as well as individuals who choose group home settings.

A commenter stated that the STP calls for the establishment of a new Office of Housing, and expressed concern that this will create an additional cost burden for the implementation of the STP.

DHS Response: As stated in the STP, the DHS already has established an Office of Housing, which will assist in the implementation of the STP without presenting an additional cost in the implementation of the plan.

One commenter suggested that the crosswalk tool and the state's review of the regulations, standards and policies be made public.

DHS Response: The state's review of all the regulations and standards and policies that were conducted as part of the STP are posted at www.state.nj.us/humanservices/dmahs/info/STP_Crosswalk.pdf.

One commenter asked for clarification that the percentage limit on new congregate settings applies to the DDD supported housing units and not MLTSS.

DHS Response: The DHS reconfirmed that the modification applies to settings licensed under N.J.A.C. 10:44A.

One commenter agreed with the Department's assessment that N.J.A.C. 8:36 is largely compliant with the HCBS settings requirements.

DHS Response: The DHS thanks you for your comment.

One commenter recommended that AL facilities that have institutional qualities be subject to heightened scrutiny.

DHS Response: At this time, the self-assessment of the AL providers licensed under N.J.A.C. 8:36 is underway so this recommendation is premature until the survey analysis and site inspections are completed.

One commenter recommended that the capacity for MLTSS be increased so that individuals are provided a choice of settings:

DHS Response: MLTSS has been in place in New Jersey since July 1, 2014. The State Fiscal Year (SFY) 2015 budget included significant funding to ensure that home and community-based services were expanded with the implementation of MLTSS. The Governor's proposed SFY 2016 budget also includes increased resources to continue the transition to community-based care through the MLTSS program. It is expected that an additional 14,000 low-income seniors and people with disabilities enrolled in NJ FamilyCare will receive care coordination and enhanced community-based services by the end of SFY 2016, helping to eliminate or delay the need for institutional care.

One commenter expressed concern that the lack of medical supports for individuals with disabilities was overlooked in MLTSS and does not comply with the intent of the HCBS setting requirements.

DHS Response: The DHS disagrees with this comment. MLTSS was developed and implemented with the knowledge that the New Jersey Comprehensive Waiver (NJCW) demonstration already was compliant with the HCBS settings and person-centered planning 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 the Centers for Medicare & Medicare Services (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.

One commenter expressed concern with the state's crosswalk review of N.J.A.C. 8:36 specifically with regard to visitation, dining and access in the HCBS setting.

DHS Response: The crosswalk review to determine compliance with the new setting requirements used exploratory questions provided by the CMS. They were created to assist states in assessing whether the characteristics of Medicaid HCBS, as required under the new rule, are present. It is organized to cite anticipated characteristics to determine if indicators of that characteristic are present. All service planning must be developed, however, through a person-centered planning process: one that addresses each individual's health and long term services and support needs in a manner that reflects his/her preferences and goals.

One commenter expressed concern with the state's crosswalk review document used to assess the standards, policies, licensing regulations and settings for the NJ FamilyCare programs and determine their current level of compliance with the settings requirements.

DHS Response: The crosswalk review to determine compliance with the new setting requirements used exploratory questions provided by CMS. They were created to assist states in assessing whether the characteristics of Medicaid HCBS, as required under the new rule, are present. While the evaluation mainly focused on HCBS settings, a portion also looked at 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.