

APPENDIX C: Nursing Facility / Acute Hospital Waiver Transition Plan

NF/AH Waiver services are delivered in the private dwellings of the Participants. The State therefore presumes that these dwellings meet the characteristics of home and community-based residential settings. Based on this assumption, the State concludes that there is no need for a transition plan with regard to NF/AH participants' residential settings.

However, Participants may choose to reside and receive waiver services in an alternative residential setting: Congregate Living Health Facility (CLHF) and Intermediate Care Facilities for the Developmental Disabled-Continuous Nursing Care (ICF/DD-CNC). The services that are provided to Participants in these settings are indicated in their person-centered plan of care as necessary to maintain individuals in the community. The CMA team helps to ensure the Participant's privacy and autonomy are respected in these settings.

Participants are informed of their rights, including the right of freedom from coercion and restraint, upon moving into a licensed residential setting. Additionally, a statement of these rights is posted in the home, including contact information if the Participant believes his or her rights have been violated. Also, periodic monitoring and evaluation conducted by regional centers and licensing entities includes verification that Participant personal rights are protected.

Congregate Living Health Facility: CLHF's are residential facilities with a non-institutional, homelike environment and is an alternative setting for Participants that require institutional level of care but choose to receive their medical services in a home or community setting. CLHF's have no more than twelve beds and provide inpatient care that includes the following array of services: medical supervisions, 24-hour skilled nursing services and supportive care, pharmacy, dietary, social, recreational and services for waiver participants who meet the LOC criteria of the appropriate waiver and are persons whose medical condition(s) are within the scope of licensure for a CLHF as follows: persons who are mentally alert and physically disabled, persons who have a diagnosis of terminal illness, persons who have a diagnosis of a life-threatening illness or Participants who are catastrophically and severely disabled. The primary need of CLHF Participants shall be the availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This service allows Participants to remain in their home. Waiver participants have freedom of choice to accept or refuse this as their residential setting.

Intermediate Care Facilities for the Developmental Disabilities-Continuous Nursing Care: ICF/DD-CNC's are residential facilities that have institutional, homelike environments and are a setting for developmentally disabled individuals that require an institutional level of care but choose to receive their medical services in an ICF/DD-CNC setting. An ICF/DD-CNC specializes in the unique needs of the developmentally disabled Participant. ICF/DD-CNC's provide inpatient care that includes the following

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

array of services: medical supervision, 24-hour skilled nursing services and supportive care including pharmacy, dietary, social, recreational and other services for Participants who meet the LOC criteria of an institution and are Participants whose medical condition(s) are within the scope of practice for an ICF/DD-CNC as follows: Participants who are developmentally disabled with physical and mental disabilities that preclude independent living and self-care. Such Participants may be diagnosed with a terminal illness or a life-threatening illness or may be catastrophically and severely disabled. The primary need of ICF/DD-CNC Participants shall be the availability of skilled nursing care on a continuous basis. Participants have freedom of choice to accept or refuse residing in an ICF/DD-CNC if the Participant chooses to remain on the Waiver and receive Waiver services.

HOME AND COMMUNITY-BASED SETTINGS TRANSITION PLAN:

California assures that the settings transition plan included with this renewal will be subject to any provisions or requirements included in California's approved Statewide Transition Plan. California will implement any required changes upon approval of the Statewide Transition Plan and will make conforming changes to its waiver when it submits the next amendment or renewal.

STATEWIDE TRANSITION PLAN REGARDING THE NF/AH WAIVER:

The NF/AH Waiver provides care management services to frail persons at risk for nursing home or institutional placement. The care management services are provided by a multidisciplinary care team comprised of a nurse and social worker. The care management team coordinates State Plan services (e.g., medical, behavioral health and In-Home Supportive Services), arranges for other long-term services and supports and, in some instances, purchases items or services that augment existing State Plan services. Care management occurs in the Participant's personal home. This home setting can be a privately owned residence, a tenant lease arrangement, or the residence of a Participant's family.

NF/AH PROVIDER TYPES INCLUDE THE FOLLOWING:

- Associate Clinical Social Worker (ACSW)
- Behavioral Therapist
- Durable Medical Equipment Provider
- Employment Agency
- Congregate Living Health Facility
- Home Health Agency
- Home Health Aide
- In-Home Supportive Services Public Authority
- Intermediate Care Facility for the Developmentally Disabled – Continuous Nursing Care
- Licensed Clinical Social Worker

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

- Licensed Psychologist
- Licensed Vocational Nurse
- Marriage Family Therapist
- Non-Profit or Proprietary Agency
- Personal Care Agency
- Private Nonprofit or Proprietary Agency
- Professional Corporation
- Registered Nurse
- Waiver Personal Care Services Provider

THE COMPLIANCE DETERMINATION PROCESS INCLUDES ALL OF THE
FOLLOWING:

For settings presumed not to be HCB settings, pursuant to CMS regulations, evidence will be provided to CMS for application of the heightened scrutiny process. Such settings will be identified through the review of state laws and regulations, provider and beneficiary self-surveys, existing monitoring and oversight processes and stakeholder input throughout the transition process.

- For all other settings, a sample of on-site assessments will be conducted. The sample results will be used to inform the stakeholder process as changes are made to the system to ensure monitoring and ongoing compliance through standard processes, such as licensing and/or certification. The sample results will also be used to guide the process of bringing HCB settings into compliance.
- The State departments have developed an agency-wide core On-Site Assessment Tool, for use in the on-site assessments of HCB settings. The core assessment tool includes questions that relate to each new federal requirement that will be used to determine if the HCB setting meets or does not meet the required federal rule. The State departments have also developed an agency-wide core Provider Self-Survey Tool, which will be forwarded to all HCB settings for completion. The results of these provider self-surveys will be reviewed by the appropriate State department/entity administering the program, and may trigger on-site assessments when indicators of non-compliance are identified.
- In addition to the core On-Site Assessment Tools and Provider Self-Survey Tools, the State departments, in collaboration with advocacy organizations, are developing core Beneficiary Self-Survey Tools, which will be distributed by the appropriate State department/entity administering the program to Participants throughout the State.
- The written results of each on-site assessment will be forwarded back to the HCB setting with specific information regarding improvements that will be required in order for the setting to come into compliance with the federal requirements and a timeline for completion. Follow up of the compliance issues will be the responsibility of the administering State department/entity.

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

- The outcome of the on-site assessments will be reported by each requirement and each HCB site where an on-site assessment was conducted. Remedial actions will be developed to include timelines, milestones and a description of the monitoring process to ensure timelines and milestones are met.

All State-level and individual-setting level remedial actions will be completed no later than March 17, 2019.

The State will ensure that HCB settings remain in compliance with the new requirements by utilizing current ongoing licensing and/or certification processes for both residential and non-residential settings, as well as weaving compliance reviews into current monitoring and oversight processes.

STAKEHOLDER INPUT:

The State conducted two public comment periods and received comments from NF/AH Participants, stakeholder and advocacy networks. Below is a summary of the most common stakeholder input: California HCBS Requirements must not become stricter than federal regulations.

Add language relative to parental or guardian choice of services/settings for children. STP does not specify Plan for children under 18 years of age; therefore, the STP assumes children's needs are the same as adults.

STP states California does not anticipate relocation of consumers, but gated communities and ICF-DDs are presumed not to have the qualities of HCBS. California must take steps to increase availability of services in integrated settings and have these options available if/when consumers are transitioned.

California should reject new applications for clustered and congregate projects, gated communities, and Intermediate Care Facilities, and should stop placing consumers in these settings.

Suggest language to be added to the background sections of the Waivers.

Please do not make sweeping restrictions that rule out options for many whom would be well served by them. Decisions about what is community-based should be made based on what actually happens in an environment and how well that fits with the needs of the residents, not based on some description of the housing and its address.

Any implementation of the HCBS waiver program should include the following:

- Maximum ability for the disabled person to be supported in the setting of his/her choice and, if unable to make such a choice, the choice loved ones determine is best.
- A range of options must be included so that we are not trying to create a "one size fits all" environment where outsiders are judging where a disabled individual belongs.

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

- A high quality of life is essential to each individual and should be the criteria for assessment of a setting, not where housing is located, nor the size of a particular setting, nor who the disabled person wants to live with, nor proximity to any particular amenities.
- People with developmental disabilities, or those who love them, should not have to be afraid of losing critical support services for choosing or developing their desired home, work and community opportunities.
- A least restrictive environment for one person may not be the least restrictive environment for another with different support needs, social needs, or interests. This difference should be respected and supported.
- California must not limit desired support services, employment, or housing choices for people with developmental disabilities, but should instead be helping to expand and fund creative solutions to address this enormous need.
- No two people with developmental disabilities are exactly alike and therefore no single setting or preference should receive priority for HCBS funding over another.

Please do not use the HCBS Waiver Program as a means of limiting our children’s choices for living the lives they want, in an environment of their choosing, and creating a meaningful future for themselves. Please do not limit their rights.

SYSTEMIC ASSESSMENT:

Provider Setting Type - Congregate Living Health Facility

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	<p>Met H & S Section 1250</p> <p>Waiver Language: In addition to the skilled nursing services and pursuant to H&S code sections 1250(i) and 1267.13, a CLHF will provide or arrange for the following basic services to be provided to individuals enrolled in the Waiver, as part of the per diem rate paid to CLHF Waiver providers:</p> <ul style="list-style-type: none"> • Medical supervision • Case management 	None	Not Applicable

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

	<ul style="list-style-type: none"> • Pharmacy consultation • Dietary consultation • Social Services • Recreational Services • Transportation to and from medical appointments • Housekeeping and laundry services • Cooking and shopping 		
2	<p>Met H & S Section 1267.13</p> <p>22 CCR Section 51344</p> <p>Waiver Language: Common areas in addition to the space allotted for the resident’s sleeping quarters, shall be provided in sufficient quantity to promote the socialization and recreational activities of the residents in a homelike communal manner</p>	None	Not Applicable
3	<p>Met H & S Section 12657.7</p> <p>Waiver Language: Bathrooms of sufficient space and quality shall be provided to allow for hygiene needs of each resident and the ability of the staff to render care without spatial limitations or compromise. No bathroom shall be accessed only through a resident’s bedroom.</p> <p>Partially met H & S Section 1267.13. (j)</p>	DHCS will modify Waiver language to include the requirement that consumer to bathroom ratios promote the right to privacy, dignity and respect.	January 2017
4	<p>Met H & S Section 1250 (i) (5) H & S Section 1267.13 (d)</p> <p>Waiver Language: Common areas in addition to the space allotted for the resident’s sleeping quarters, shall be provided in sufficient quantity to promote the socialization and recreational activities of the residents in a homelike and communal manner.</p>		
5	<p>Met 22 CCR Section 51343.2</p>	None	Not Applicable

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

	<p>Waiver Language: As a Waiver service provider, each NF/AH Waiver enrolled individual will be assessed for needed or required services as identified by the individual, their legal representative/legally responsible adult(s), primary care physician, family, caregivers, and/or other individuals at the request of the individual. The CLHF will establish a POT to address how these services will be provided, the frequency of the services and identified in the CLHF's per diem rate under this Waiver. The CLHF will be responsible for arranging for the following services, which may include but are not limited to:</p> <ul style="list-style-type: none"> • Counseling services provided by a Licensed Clinical Social Worker • Occupational therapy provided by an Occupational Therapist • Speech therapy provided by a Speech Therapist • Education and training of the Waiver participant to self-direct his/her care needs and/or the education and training of their identified caregivers (who are not CLHF employees) on their care needs • Assessment for and repair of Durable Medical Equipment and • State Plan Personal Care Services or WPCS as described in the approved Waiver when off site from the CLHF if such care is not duplicative of care required to be provided to the waiver participant by the CLHF (i.e., not for care to and from medical appointments). State Plan or WPCS providers will not be paid for care that is duplicative of the care being provided by the CLHF. 		
6	All CLHF residents sign a legally enforceable lease agreement with the residential setting provider, however Health and Safety Code is silent on this protocol.	DHCS will modify Waiver language to include a legally enforceable lease agreement exists between	January 2017

NURSING FACILITY/ACUTE HOSPITAL TRANSITION AND DIVERSION
WAIVER RENEWAL PROPOSAL

		provider and consumer	
7	<p>Met H & S Section 1267.13</p> <p>The facility shall be a homelike, residential setting. The facility shall provide sufficient space to allow for the comfort and privacy of each resident and adequate space for the staff to complete their tasks.</p> <p>The residents' individual sleeping quarters will allow sufficient space for safe storage of their property, possessions, and furnishings and still permit access for the staff to complete their necessary health care functions. Not more than two residents shall share a bedroom.</p>	None	Not Applicable
8	Silent	DHCS will modify Waiver language to include the requirement that consumer may control their own schedules including access to food.	January 2017
9	<p>Met H & S Section 1267.13</p>	None	Not Applicable
10	<p>Met H & S Section 1267.13</p>	None	Not Applicable