

# California HCBS Statewide Transition Plan Summary of Stakeholder Comments

## **Background**

On March 17, 2014, the Centers for Medicare & Medicaid Services (CMS) implemented new federal rules regarding HCB settings affecting 1915(c) waivers and the 1915(i) state plan benefit. DHCS is required to submit a Statewide Transition Plan (STP) to CMS by December 19, 2014, detailing the state's process for bringing HCB settings into compliance with the new rules. The state will have one year to submit individual waiver transition plans and five years to come into full compliance. DHCS posted the first STP draft to the DHCS website on September 19, 2014, followed by a 30-day stakeholder input period. DHCS posted the second STP draft on November 7, 2014, followed by another 30-day stakeholder input period, which ended on December 8, 2014. DHCS also hosted two stakeholder calls on October 21, 2014, and December 2, 2014.

## **Analytics**

More than 250 beneficiaries, providers, advocates, and other stakeholders participated in the stakeholder calls combined. DHCS established a dedicated email box to receive stakeholder input. DHCS received over 230 emails of stakeholder input, and five mailed letters. Approximately 65% of stakeholder input was received directly from beneficiaries and their families, 20% was received from providers, and 15% from advocates. We received valuable feedback during this extensive stakeholder input process and have summarized these comments in the following pages. Bold text indicates frequently received comments.

## **Overview**

As an overview of comments received, beneficiaries and their family members were most concerned with the choice of homes and programs, including congregate housing and sheltered workshops. Advocates indicated that congregate housing and sheltered workshops tend to isolate beneficiaries, and believe residents and participants in these settings will need to be relocated. Further, advocates have asserted that beneficiaries must be a part of the assessment team and actively involved in all aspects of the STP process. Providers have commented that assessing a category of settings may not be adequate as there is diversity among settings within a category. In addition, providers have raised concerns about funding and resources should modifications be necessary to come into compliance.

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Consumer and Family:

- **Please permit Group Homes, Farmsteads, Gated Communities, Disability-Specific Housing, Intentional Communities, and Clustered Group Settings.**
- **Day Programs, Work Programs, and Sheltered Work Programs must remain an appropriate setting.**
- **California HCBS Requirements must not become stricter than federal regulations.**
- 73,000 Californians with severe forms of autism. We need to maximize autism housing options including those congregate in nature.
- Ensure that community inclusion requirements do not exclude rural HCBS housing options
- Difficult to find appropriate/stimulating day programs and housing.
- DDS should take a more active role ensuring Regional Centers are providing services in a uniform manner.
- HCBS requirements are not uniform across the state, i.e.: 4 beds vs 6 beds limitations in residential facilities. There is not enough supply of residential facilities and imposing new regulations could shrink this number further.
- IPPs should include a description of services that were requested but were not delivered due to insufficient supply.
- DD Consumers should be allowed to live with different level types, ie: Level 2 living with Level 4a or 4b.
- Add language relative to parental or guardian choice of services/settings for children. STP does not specify Plan for children under 18 years; therefore, the STP assumes children's needs are the same as adults.

Advocates:

- **STP states CA does not anticipate relocation of consumers, but gated communities and ICF-DDs are presumed not to have the qualities of HCBS. CA must take steps to increase availability of services in integrated settings and have these options available if/when consumers are transitioned.**
- **No information or direction is found on Regional Center websites RE: the STP.**
- **Education and Outreach section of STP does not define who will provide training to stakeholders.**
- **State should use pre-existing tools, such as the National Core Indicator (NCI), for assessing settings, and to narrow down the services and sites requiring assessment.**

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- **Ensure that a consumer is part of all on-site evaluation survey teams. In addition, a family member and/or consumer advocate, and one provider should also be included.**
- Stakeholder input process must be made accessible to people with sensory impairments. DHCS should develop a communication plan for education and outreach. A consumer must be part of all assessment teams, and consumer self-assessments should be required to self-assess their living arrangements a day program.
- While assessing settings by category will be useful, on-site evaluations must be conducted.
- Settings that "cluster" people with disabilities will have to go major architectural changes to comport to the new rules. The STP must include a plan for transferring these participants to more integrated settings.
- Sheltered workshops are not integrated as all workers have developmental disabilities, and these workers do not interact with non-disabled workers. CA should ensure that individuals have access to supported employment services that help people find real jobs that pay real wages, and that workers with disabilities work alongside non-disabled workers.
- CA should reject new applications for clustered and congregate projects, gated communities, and ICFs, and should stop placing consumers in these settings.
- The state does not positively state which current services are already meeting the settings requirements, which do not, and which require further review.
- What is the deadline for HCB setting and/or consumers receiving the assessment questionnaire?
- DHCS must develop a plan to expand investment of state funds in order to implement the rules properly.
- DHCS must develop guidance for every state department involved in the HCBS implementation process so that state departments know how they must conduct the transition/implementation process.
- Consumers must be involved in the stakeholder and implementation process.
- On-site evaluations must include each provider category listed in the plan in every county in the state; and consumer/family should be consulted during on-site reviews for greater accuracy.
- If self-assessments raise concerns, the state must do an on-site evaluation.
- Sheltered workshops are not considered by many with disabilities as a community-based service. The STP should include a plan to transition people out of sheltered workshops into individual supported employment.
- A list of HCB settings that are NOT being scrutinized should be prepared for stakeholders.

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- To comply with the Federal Rules, additional investments in health care infrastructure for adults with developmental disabilities will be required.
- STP should more specifically identify the state's intention to form work groups and/or use existing committees to look at implications specific to populations served.
- Request extension for further STP review and public comment.
- Follow consistent principles, across state departments, in implementation of the Federal Rules.
- Take steps to obtain robust and candid stakeholder input. Convene focus groups for the sharing of personal experiences. Allow stakeholder input through multiple channels: mail, website, dedicated telephone and fax numbers. More robust education and outreach.
- Provide Transparency in Transition Plan Activities: accurate assessments of providers; publish a list of providers and an initial assessment of HCB setting compliance.
- Provide specifics in assessments, so as to allow for more meaningful responses. Federal Rules tend to be vague; comments suggest specific assessment questions to be used to determine HCB setting compliance.
- Conduct an adequate number of on-site evaluations. If the State plans to submit any setting to the heightened scrutiny process, it should perform an on-site assessment.
- Compliance may be determined using self-assessments, provider assessments, and consumer/family input through the person-centered planning process.

Providers:

- **STP does not indicate that the State will respond to stakeholder input.**
- Suggests language to be added to the background sections of the HIV/AIDS Waiver, DD Waiver, ALW, NF/AH Waiver, IHO Waiver, SFCLSB Waiver, PPC.
- Add home health agencies and case management companies to the list of settings for compliance determination.
- Ensure consumers are given adequate choice of service/setting.
- Departments should be able to use an assessment tool that applies to their programs, not a generic tool used across all programs. Further, survey teams need to be trained on the tool and the definition and meaning of HCB Setting rules. Assessment Template must be reliable and valid.
- Establish a standing stakeholder monitoring and advisory committee for issues related to people eligible for DD Services.
- Consumers transitioning from school to adult services have not been properly informed of new federal rules. STP contains no suggestion of how issues RE:

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child to adult services will be addressed; no information on the Department of Education website.

- Development of assessment tools, evaluation of settings, program modifications, and supporting individuals through service transitions will require resources, which must be included in the state's budget for community-based developmental services.
- DSS-CCL has authority to grant or revoke licenses for residential and non-residential settings; therefore, the state must establish timelines for making necessary modifications to the statutes and regulations for these programs.
- Adult Development Center is available statewide. Contra Costa County has 7 different settings, some of which are 100% in the community with no facility involved; others are 50% at the site and 50% in the community. Assessments must be made of individual settings, not to the category as a whole.
- Changes that must be made to bring a setting into compliance will likely require funding so the STP should be clear about this. The STP should recognize that if changes are necessary, adequate funding must be made available to affect them.

Comments beyond Scope of STP:

- **HCBS providers have had their pay rates frozen for 15 years. Wage disparity between HCB settings and institutions limits HCB providers' ability to recruit and retain staff.**
- More jobs available to consumers, including full-time, \$9/hr positions.
- Invest in the infrastructure to support self-direction and community living including: the CART Model; Supported Health Care Decision Making Services; Technology infrastructure; increased Regional Center funding; Improved access to dispersed housing; Incentives and support for real jobs for real wages.
- ALW should be available statewide.