

# Person/Family Directed Support Waiver Transition Plan

**Remediation Strategies** - ODP's overall strategy will rely heavily on its existing HCBS quality assurance processes to ensure provider compliance with the HCBS rule. This will include provider identification of remediation strategies for each identified issue, and ongoing review of remediation status and compliance. ODP may also prescribe certain requirements to become compliant. ODP will also provide guidance and technical assistance to providers to assist in the assessment and remediation process. Providers that fail to remediate noncompliant settings in a timely manner may be subject to sanctions.

## Unallowable Settings, Settings Presumed Not Eligible and All Settings Must Meet the Following Qualifications

**Federal Requirement** - 441.301(c) (5) - Home and Community-Based Settings do not include a nursing facility, institution for mental diseases, ICF/ID and hospitals.

441.301(c) (5) (v) – Settings in a publicly or privately owned facility that provide inpatient treatment;

441.301(c) (5) (v) – Settings on the grounds of or immediately adjacent to a public institution;

441.301(c) (5) (v) – Settings that have the effect of isolating individuals receiving HCBS from the broader community of individuals not receiving HCBS;

441.301(c) (4) (i) - The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

441.301(c) (4) (ii) – The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and for residential settings, resources available for room and board;

441.301(c) (4) (iii)–The setting ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;

441.301(c) (4) (iv) – The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to: daily activities, physical environment, and with whom to interact;

441.301(c) (4) (v)– The setting facilitates choice regarding services and who provides them.

#	Action Item	Description	Start Date	Target End Date	Deliverable
1	Explore employment data collection system	Explore employment data collection systems that will capture information on individuals served in the waiver such as type of job, wages, benefits and length of employment as well as information on providers rendering employment services. Recommendations will then be made as to the feasibility of a system and finally a decision will be made regarding whether employment data collection system can be implemented.  <b>Action Complete – ODP has determined that employment questions and responses will be captured in the Individual Monitoring tool used by Supports Coordinators.</b>	November 2014	July 2015	Decision to determine if a system can be implemented
2	Draft Regulations	Create a draft of the 55 Pa. Code Chapter 6100 regulations with stakeholder input. These regulations will replace 55 Pa. Code Chapter 51 and govern home and community based	January 2015	September 2015	Draft regulations

## Person/Family Directed Support Waiver Transition Plan

		<p>services provided through the P/FDS Waiver as well as other ODP programs.</p> <p><b>Action Complete – ODP anticipates these drafts being released for public comment in September 2016 (see number 9 below).</b></p>			
3	Draft and Publish Executive Order on Employment	<p>Collaborate with other state agencies, including the Departments of Education and Labor and Industry, and the Governor’s Offices of Administration and Policy to draft for Governor’s consideration and publication the Executive Order on Increasing Competitive Integrated Employment for People with a Disability. This document will clearly articulate employment principles for people with all disabilities.</p> <p><b>Action Complete – March 10th 2016, Governor Tom Wolf signed Executive Order 2016-03 establishing “Employment First” policy which can be found at:</b>  <a href="https://www.governor.pa.gov/executive_orders/executive-order-2016-03-establishing-employment-first-policy-and-increasing-competitive-integrated-employment-for-pennsylvanians-with-a-disability/">https://www.governor.pa.gov/executive_orders/executive-order-2016-03-establishing-employment-first-policy-and-increasing-competitive-integrated-employment-for-pennsylvanians-with-a-disability/</a></p>	January 2015	April 2016	Executive Order on Employment
4	Draft Waiver Service Definitions and Provider Qualifications for the Waiver Renewal	<p>Draft waiver service definitions and provider qualification criteria with stakeholder input. This will include a two tiered set of standards: One that must be met by current providers and a different set of standards for providers that are newly enrolling to provide services.</p>	April 2015	June 2016	Draft service definitions and provider qualifications
5	Implement In-Person and On-Line Training	<p>Engage the SELN to provide training, resources and technical assistance to Supports Coordinators to engage in employment conversations.</p> <p>Collaborate with OVR to develop local trainings for OVR counselors, ODP staff, Supports Coordinators, Employment Providers, and Transition Coordinators to increase competitive integrated employment outcomes for students and adults.</p>	June 2015	December 2016	Training Tools

## Person/Family Directed Support Waiver Transition Plan

6	Execute Memorandum of Understanding with Office of Vocational Rehabilitation	Develop joint funding MOU between ODP and OVR to increase OVR capacity to serve individuals with an intellectual disability and to enable innovation and expansion of services to increase competitive integrated employment outcomes for ODP population. <b>Action complete in January 2016</b>	July 2015	January 2016	Signed Memorandum of Understanding; transfer of funds from ODP to VR Fund.
7	Revise SC Monitoring Tool	Revise the tool used by Supports Coordinators when monitoring individuals to capture employment data and begin implementation of the revised tool.	November 2015	November 2016	Individual Monitoring Tool used by SCs
8	Build Provider Capacity for Competitive Integrated Employment	Provide comprehensive strategic consulting and mentoring of provider organizations shifting from a focus on facility-based service provision to supports aligned with competitive integrated employment in collaboration with the Office of Disability Employment Policy's Employment First State Leadership Mentoring Program.	December 2015	December 2017	Training Tools
9	Public Comment on Regulations	Draft regulations will be published through notice in the Pennsylvania Bulletin for public comment.	September 2016	November 2016	Pennsylvania Bulletin Notice
10	Public Comment on Waiver Renewal	Draft waiver renewal changes will be published through notice in the Pennsylvania Bulletin for public comment.	October 2016	December 2016	Pennsylvania Bulletin Notice
11	Submit Final Waiver Changes to CMS	Submit final waiver renewal to CMS for approval.	March 2017	March 2017	Waiver Renewal
12	Identify where new required information is included in the ISP	Identify where the following will be documented in the ISP: <ul style="list-style-type: none"> <li>• Setting options provided to individuals will be documented in the ISP</li> <li>• Modifications to one of the requirements when needed</li> </ul>	January 2017	July 2017	HCBS IT Changes List, Document setting options
13	Develop	Develop and publish communication regarding required ISP	January	July 2017	Policy Document

## Person/Family Directed Support Waiver Transition Plan

	communication	documentation. This communication will include the additional information that must be included in the ISP when a modification to a requirement is needed.	2017		
14	Issue Regulations	Issue final regulations.	October 2017	October 2017	Pennsylvania Bulletin Notice
15	Enrollment process for new providers and service location move	Develop and implement a process to ensure new providers enrolling to render waiver services, existing providers moving their service locations and provider requests for expansion are not unallowable.	March 2017	June 2017	Enrollment Process
16	Review/Revise Provider Agreement	Review provider agreement and revise if necessary.	March 2017	June 2017	Provider Agreement
17	Provider Service Alignment with Waiver	Time for providers to analyze services rendered and make changes to comply with the waiver and regulations.	March 2017	July 2017	No Deliverable For This Item
18	Develop/Distribute Training Tools and Policy Updates	Identify, develop, and distribute training tools and policy updates that are needed for compliance.	July 2017	March 2019	Training tools and policy updates
19	Revise Provider Monitoring Tool	Revise provider monitoring tool to capture new requirements in waiver renewals and regulations.	March 2017	July 2017	Provider Monitoring Tool
20	Provider Self-Assessment	All P/FDS waiver providers will complete a self-assessment of their compliance with current applicable waivers, regulations and policies.	September 2017	November 2017	Provider Tracking Tool
21	On-Site Reviews of Providers	An onsite review will be completed for approximately 33% of waiver providers for compliance with applicable waiver and regulations. The providers who are selected for onsite monitoring will be selected from the universe of waiver providers regardless of whether the self-assessment indicates compliance or noncompliance. ODP or its designee will also review all of the self-assessments for waiver providers who were not selected for an onsite monitoring and complete an onsite monitoring visit for all ODP waiver providers who either	September 2017	June 2018	Provider Tracking Tool

## Person/Family Directed Support Waiver Transition Plan

		<p>did not complete a self-assessment or whose self-assessment indicated noncompliance.</p> <p>The onsite review results will identify each of the areas of noncompliance identified during the monitoring process. The Statement of Findings/Final Audit Report/Corrective Action Plan form (form) is first issued electronically, via email, by the reviewing entity within 30 calendar days of the completed monitoring. The issued form will identify each of the areas of noncompliance identified during the monitoring process. Once the monitored entity receives the form, the monitored entity is responsible to complete Corrective Action Plan sections of the form and return it within 15 calendar days, responding to all areas of noncompliance identified by the reviewing entity</p> <p>The information entered by the monitored provider should:</p> <ul style="list-style-type: none"> <li>• Identify the specific action to correct each instance of noncompliance identified on the form by the reviewing entity. If there are multiple findings of the same area of noncompliance, the monitored provider may provide one response to the finding, with actions specific to the individual or location included.</li> <li>• Identify a target date for the completion or anticipated completion of the corrective action. Remediation of noncompliance is expected to be completed within 30 calendar days of receipt of the form. If the remediation has already been completed, the target date can be left blank. If this target date will exceed 30 calendar days, the monitored provider should also include an explanation of why the corrective action could not be implemented within the 30 day time frame. This information should appear in the Corrective Action column (where the specific actions to be taken are described). If the corrective action is completed prior to submission of the Corrective Action Plan (CAP), indicate the completed date and submit documentation confirming the action with the submission of the form to the reviewing entity.</li> </ul>			
--	--	--	--	--	--

## Person/Family Directed Support Waiver Transition Plan

		<p>The reviewing entity will then review and return the CAP indicating that the plan has been approved or that further clarification and/or correction is required. Failure of the monitored provider to return the CAP or a revised CAP within 15 calendar days will result in a Directed Corrective Action Plan (DCAP) being issued by the reviewing entity within 10 calendar days.</p> <p>All monitored providers completing a CAP are advised to maintain documentation of the corrective actions taken. This information will be used for future validation activities. The type of documentation required should be in accordance with the specific monitoring process. In some cases, these corrective actions will be validated during future monitoring activities, or the monitored entities may be asked to submit documentation to the appropriate reviewing entity.</p>			
22	Notify Providers of Decision	<p>After the completion of the onsite monitoring reviews, settings that are presumed to have institutional qualities per the Centers for Medicare and Medicaid Services (CMS) requirements will be identified. When such settings are determined to have the qualities of a home and community-based setting, information on these settings will be submitted to CMS for heightened scrutiny. Providers will be notified of ODP's initial decision regarding the setting's eligibility. Providers determined to be ineligible will be provided appeal rights. Providers will be expected to comply with applicable 55 Pa. Code Chapter 6100 requirements.</p>	August 2018	September 2018	Notification to providers
23	Notify Participant of Decision	<p>Individuals served by providers determined to be ineligible will be notified of the provider's ineligibility and what actions participants may expect. Supports Coordination entities and Administrative Entities will also be notified. This initial monitoring process will be complete in the summer of 2018</p>	August 2018	September 2018	Notification to participants

## Person/Family Directed Support Waiver Transition Plan

		The ISP team must discuss the option of other willing and qualified providers or other services that will meet the individual's needs and ensure their health and safety. The Supports Coordinator will be responsible for documenting this discussion.			
24	Public Notice	<p>A public notice will be published which will list the provider name, the county in which the setting is located, the waiver service(s) provided at the setting, and the number of individuals authorized to receive services in the setting along with the determination that the setting falls into one of the following categories:</p> <ul style="list-style-type: none"> <li>• Ineligible for waiver reimbursement as of March 2019,</li> <li>• Eligible for waiver reimbursement, or</li> <li>• Eligible for waiver reimbursement and meets criteria for CMS heightened scrutiny process.</li> </ul>	November 2018	December 2018	Public Notice
25	Access Issues	Determine whether access issues may be created by providers who are no longer eligible/willing to provider waiver services. Access issues are defined as the inability of an individual/family to locate a willing and qualified service provider and/or the inability of an Administrative Entity/Supports Coordination Organization to secure a willing and qualified provider for individuals requesting services.	November 2018	December 2018	Provider Tracking Tool
26	Transition Participants	Ensure that individuals who receive services in ineligible settings transition to willing and qualified providers, if necessary.	December 2018	March 2019	Provider Tracking Tool
27	CMS Heightened Scrutiny	Send list of settings/providers determined eligible in accordance with the waiver to CMS for Heightened Scrutiny process.	March 2019	March 2019	List of Eligible Providers
28	Ongoing Monitoring	All waiver providers are continuously monitored for compliance during a 3-year cycle per waiver requirements. Providers will be monitored for compliance with applicable waivers, regulations and policies which will include compliance	March 2019	Ongoing	Provider Tracking Tool

## Person/Family Directed Support Waiver Transition Plan

		with the CMS HCBS Final Rule.			
29	Public Notice of CMS Heightened Scrutiny Determination	Notice will be published in the Pennsylvania Bulletin regarding the settings/provider CMS accepted as being home and community based and those that CMS denied as being home and community based.	As determined by CMS	Ongoing	Public Notice

# Person/Family Directed Support Waiver Transition Plan

## Requirements for Provider-owned or Controlled Home and Community Based Residential Settings

Federal Requirement-42 CFR 441.301(c) (4) (vi) (A)- In a provider-owned or controlled residential setting, the unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement, or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

Federal Requirement-42 CFR 441.301(c) (4) (vi) (B) (1)- In a provider-owned or controlled residential setting, each individual's units has an entrance door lockable by the individual, with only appropriate staff having keys to the door

Federal Regulation-42 CFR 441.301(c) (4) (vi) (B) (2)- In a provider-owned or controlled residential setting, individuals sharing units have a choice of roommates

Federal Requirement-42 CFR 441.301(c) (4) (vi)(B) (3) – In a provider-owned or controlled residential setting, individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement

Federal Requirement-42 CFR 441.301(c) (4) (vi) (C) – In a provider-owned or controlled residential setting, individuals have the freedom and support to control their own schedules and activities and have access to food at any time

Federal Requirement-42 CFR 441.301(c) (4) (vi) (D) – In a provider-owned or controlled residential setting, individuals are able to have visitors of their choosing at any time

Federal Requirement-42 CFR 441.301(c) (4) (vi) (E) – In a provider-owned or controlled residential setting, the setting is physically accessible to the individual

**The P/FDS waiver does not offer Residential Habilitation service. Therefore, it is presumed that this waiver is in compliance with the CMS Rule.**

## Person/Family Directed Support Waiver Transition Plan

Outreach & Engagement - ODP proposes to involve various stakeholders in the development and implementation of this transition plan.					
#	Action Item	Description	Start Date	Target End Date	Deliverable
1	Input Sessions	<p>ODP held seven input sessions with various stakeholder groups to discuss what information ODP should include in the transition plan for the P/FDS Waiver.</p> <p><b>Action Complete</b></p>	July 2014	August 2014	Input Session Schedule
2	Develop Communication Materials	<p>Create Transition Plan Website links, link to register for webinars, public comment mailbox, information handouts, public communication brief</p> <p><b>Action Complete – ODP specific documents can be accessed at <a href="http://dhs.pa.gov/learnaboutdhs/dhsorganization/officeofdevelopmentalprograms/ODPHCBS/index.htm">http://dhs.pa.gov/learnaboutdhs/dhsorganization/officeofdevelopmentalprograms/ODPHCBS/index.htm</a></b>  <b>Statewide documents can be accessed at <a href="http://www.dhs.pa.gov/citizens/hcbswaiver/">http://www.dhs.pa.gov/citizens/hcbswaiver/</a></b></p>	December 2014	December 2014	Communication materials
3	Public Notice & Comment	<p>Official notification through PA Bulletin to begin the public comment period on waiver amendments/revisions and published draft transition plan including: submission, consolidation, documentation, and review of public comments</p> <p><b>Action Complete – The notice can be accessed at <a href="http://www.pabulletin.com/secure/data/vol44/44-51/2638.html">http://www.pabulletin.com/secure/data/vol44/44-51/2638.html</a></b></p>	December 2014	February 2015	Public notice
4	Stakeholder Webinars	<p>Two webinars held to obtain public comment on proposed P/FDS Waiver transition plan</p> <p><b>Action Complete - The notice above shows that webinars were held on January 14, 2015 from 1pm to 4pm and January 15, 2015 from 9am to 12pm.</b></p>	January 2015	January 2015	Public Notice, Notes from Webinar
5	Transition Plan Revision	<p>Incorporation of stakeholder comment and feedback on Pennsylvania's Statewide Transition Plan, submission of final</p>	February 2015	March 2015	Waiver Amendment,

## Person/Family Directed Support Waiver Transition Plan

		<p>waiver amendment and transition plan to CMS, and publication of submitted plan and comments received and Department responses.</p> <p><b>Action Complete – The ODP public comment and response document as well as the summary of changes made to the ODP transition plans can be accessed at <a href="http://dhs.pa.gov/learnaboutdhs/dhsorganization/officeofdevelopmentalprograms/ODPHCBS/index.htm">http://dhs.pa.gov/learnaboutdhs/dhsorganization/officeofdevelopmentalprograms/ODPHCBS/index.htm</a></b></p>			Transition Plan, Comment and Response Document
6	ODP Stakeholder Meetings	<p>Provide stakeholders with an overview of the CMS HCBS Final Rule and obtain feedback from stakeholders to help in the development of recommendations to help Pennsylvania come into compliance with the CMS final rule.</p> <p><b>Action Complete – Meetings were held April 6 – 8, 2015.</b></p>	April 2015	April 2015	Summary of Stakeholder Input
7	Ongoing Stakeholder Workgroup	<p>ODP Stakeholder Workgroup will be developed to Assist ODP in drafting waiver service definitions and provider qualification criteria.</p>	October 2015	January 2016	Draft Service definitions and provider qualifications
8	Provider & Stakeholder Training	<p>Ongoing engagement highlighting updates and revisions to Pennsylvania’s regulations, policies, and procedures; training on compliance to the HCBS Final Rule and transitioning activities for individuals with an intellectual disability, families, supports coordinators, providers, and staff.</p> <p><b>A webcast providing an overview of the CMS HCBS Final Rule was released in September 2015 and can be accessed at <a href="http://www.odpconsulting.net/resources/webcasts-videos/cms-final-rule/">http://www.odpconsulting.net/resources/webcasts-videos/cms-final-rule/</a></b></p>	April 2015	March 2019	Training, Stakeholders Involvement Plan

## Person/Family Directed Support Waiver Transition Plan

9	Ongoing Stakeholder Engagement	Continued engagement with stakeholder community on regulations and department updates, sustaining an inclusive, person-centric focus that is transparent to individuals and the community while providing accountability to all parties involved.	December 2014	March 2019	Stakeholder Involvement Plan
10	Develop Provider Base	Provide Ongoing engagement with service providers to help build capacity for provisions of services in more integrated settings.	January 2016	March 2019 and ongoing	Strategy document for developing an enhanced provider base