

North Dakota Department of Human Services

Statewide Transition Plan – revised to seek final approval from the
Centers for Medicare and Medicaid Services
Home and Community Based Federal Regulations



Overview of the Federal Regulations

A final rule (CMS 2249F) was issued in January 2014 that affects home and community-based services (HCBS) provided through Medicaid waivers. The new regulations:

1. Provide a definition of a home and community-based setting
2. Define person-centered planning requirements and conflict of interest standards for case management
3. Required states to develop transition plans for bringing all HCBS settings into compliance

The objective is to ensure that HCBS waiver participants can enjoy the benefits of living, working, and participating in their communities.

HCBS Settings Requirements Overview

All Medicaid HCBS settings must:

- Be integrated in the community and provide full access to the greater community
- Be selected by the individual from among multiple setting options
- Support the individual's choice of services and supports
- Ensure privacy, dignity, respect, and freedom from coercion and restraint

The rules apply to all services

HCBS Settings Requirements Overview

Individuals in all HCBS residential settings should be able to have:

- Freedom to control their own schedules
- Privacy in their living unit
- Freedom to furnish or decorate their unit as they wish
- Choice of roommates
- Access to food at any time
- Visitors at any time

If any right is not met for health or safety reasons must be explained and documented in the individual's person-centered service plan

HCBS Settings Requirements Overview

Requirements for provider owned or controlled residential settings:

- Certain requirements further scrutinized
- Legally enforceable agreement or lease must be in place
 - Same responsibilities/protections from eviction as all tenants under landlord tenant law
- Modifications are documented and justified in the individual's person-centered service plan

HCBS Settings Requirements Overview

Settings CMS considers NOT Home and Community-Based:

- Nursing Facility
- Institution for mental diseases
- Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- Hospital

HCBS Settings Requirements Overview



Settings CMS considers PRESUMED NOT to be Home and Community Based:

- Are located in/on the grounds of/adjacent to a public institution
- Are in a publicly or privately-owned facility providing inpatient treatment
- Have the effect of isolating individuals from the broader community, such as:
 - Farmsteads in rural areas
 - Gated communities for people with disabilities
 - Residential schools
 - Multiple settings

States submit evidence demonstrating settings have qualities of home and community-based settings and go through CMS heightened scrutiny

Person-Centered Planning Overview

The person-centered planning process must:

- Allow the individual to lead the process, when possible
- Include family members, friends, and others selected by the individual
- Provide individuals with necessary information to make informed decisions about their choice of available services, settings, and providers
- Reflect the individual's strengths, preferences, goals and desired outcomes

ND Transition Planning



- DHS submitted an initial Statewide Transition Plan on November 28, 2014 to CMS that addressed how it will comply with the HCBS settings requirements for all six Medicaid 1915(c) waivers:
 1. HCBS Waiver (serves Aged and Disabled)
 2. Autism Spectrum Disorder (ASD) Waiver
 3. Children's Hospice Waiver
 4. Medically Fragile Children's Waiver
 5. Technology Dependent Waiver
 6. Traditional IID/DD HCBS Waiver
- ND received initial approval on November 1, 2016

Review of the revised Statewide Transition Plan

- CMS requested additional information for ND to obtain final approval. This request can be found at:
 - <https://www.medicaid.gov/medicaid/hcbs/downloads/nd/nd-initial-approval.pdf>
- Proposed changes are highlighted in the revised plan. Revised plan may be found at:
 - <http://www.nd.gov/dhs/info/pubs/medical.html>

Next steps in ND's transition planning

- Public comment will be accepted until October 28, 2018
- After public comment period closes, the Department will review the comments and make changes as needed
- Department will submit the revised Statewide Transition Plan to CMS in November 2018
- Department will continue to implement the transition activities identified in the plan and work with CMS on final approval
 - CMS' goal is to have all plans approved by March 17, 2019
- All transition activities to bring states into compliance with the rule must be completed by March 17, 2022

How to Submit Public Comment



- **Comments and public input on this revised transition plan can be submitted verbally at this time or to North Dakota Department of Human Services until October 28, 2018 in the following ways:**
 - **Email: DSHCBS@ND.GOV**
 - **Phone (701)-328-4601 or (855) 462-5465, or ND Relay TTY 800-366-6888**
 - **Fax (701) 328-8744**
 - **Mail: ND DHS Aging Services Division –Attn: Nancy Nikolas Maier, 1237 West Divide Ave Suite 6, Bismarck, ND 58501**

Final Rule Medicaid HCBS



CMS HCBS Regulations was an overview. For the full rules and more information please visit:

<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>



Thank you!