

The Office of Developmental Programs' Home and Community Based Settings (HCBS) Transition Plans

Public Comments

The Office of Developmental Programs administers three 1915(c) waivers: The Consolidated, Person/Family Directed Support (P/FDS), and Adult Autism Waivers. Notice was published in the *Pennsylvania Bulletin* on December 20, 2014 informing stakeholders that the Office of Developmental Programs was making the amendments and accompanying transition plans for all three waivers available for public review and comment. This notice also informed stakeholders that comments would be accepted regarding the waiver amendments and accompanying transition plans from December 20, 2014 through February 2, 2015. The public was given three different methods for submitting comments: Verbally during two webinars held, electronically via the email address (RA-odpcomment@pa.gov) or written submission by mail.

Per CMS requirements, this document reflects summaries of the comments received during the public notice period, reasons why comments were not adopted, and any modifications to the transition plan based upon those comments. Multiple comments that convey the same meaning were consolidated.

Comments in this document are organized as follows:

1. Sections 1 and 2: Identification and Assessment
2. Section 3: Remediation Strategies, Unallowable Settings
3. Section 3: Remediation Strategies, Settings Presumed Not Eligible
4. Section 3: Remediation Strategies, All Settings Must Meet the Following Qualifications
5. Section 3: Remediation Strategies, All Settings Must Meet the Following Qualifications - Specific to Employment
6. Section 4: Outreach and Engagement
7. Person-Centered Planning
8. General Comments
9. Section 3 for the Consolidated and Adult Autism Waivers: Remediation Strategies, Requirements for Provider-Owned or Controlled Home and Community Based Residential Settings
10. Specific to the Adult Autism Waiver (AAW) Transition Plan

Helpful definitions of acronyms used in this document:

ODP – The Office of Developmental Programs includes the Consolidated Waiver, Person/Family Directed Support Waiver, and the Adult Autism Waiver.

The Department – Pennsylvania’s Department of Human Services (also known as DHS) which includes the Office of Developmental Programs and the Office of Long Term Living.

CMS – The Centers for Medicare and Medicaid Services, the federal agency that approves and funds Pennsylvania’s 1915(c) Waivers

Comments Received on Section 1: Identification and Section 2: Assessment	
Summary of Comment	Response
<p>1</p> <p>People with disabilities and other stakeholders need to be involved before policies become final. The transition plans provide for Identification, Assessment, and Remediation Strategies for regulations, waiver service definitions, licensing requirements, and other policies. The plans should state that the Department will include stakeholders in proposed revisions and have public comment via the Pennsylvania Bulletin and, if a regulation, the regulatory review process. Similarly, another public notice and public comment period should be provided when revisions are made to a transition plan.</p> <p><i>*One other similar comment was received</i></p>	<p>The ODP agrees with these recommendations and has revised the transition plans accordingly.</p>
<p>2</p> <p>The transition plans list tools and other materials that will be developed or revised but contain little explanation of these materials. Examples are: monitoring tool and training tool, HCBS Guidelines, Provider Tracking Tool, On-Site Monitoring Tool, and ISP Checklist and Document.</p> <p>The public needs knowledge of and the ability to comment on</p>	<p>Policies and guidance must be developed before the ODP can determine the exact tools that will be utilized to monitor compliance with the policies and guidelines. ODP currently utilizes Provider and Supports Coordination Organization/Agency monitoring tools. As policies and guidance are developed, ODP will explore whether current monitoring tools should be modified and utilized or whether new monitoring tools will need to be developed.</p>

	all implementation materials. The transition plans should describe how the Department will distribute, draft or revise versions of these materials for public comment. If these materials exist, they should be attached to the plans. For example, the existing Home and Community-Based Services quality assurance process should be attached because the Department states that it will rely heavily on this process.	
3	The Department should provide for accessible methods for people with disabilities and family members to report settings that are concerning to them, such as a toll-free hotline, email address, Supports Coordinator visits, and other methods.	Individuals, family members and any other concerned party may report settings that are noncompliant with the new federal requirements to the Intellectual Disabilities Customer Service Line at 1-888-565-9435 or 1-866-388-1114 for individuals who are hearing impaired. For participants of the Adult Autism Waiver, participants can call 1-866-539-7689.
4	The transition plans should not limit the list of providers to certain waiver services. All settings – licensed and unlicensed, residential and non-residential – need to comply with the new federal regulations. The Department should develop a list of all settings where any waiver service is provided. This is critical because the Department relies on this list in Remediation Strategies. <i>*One other similar comment was received</i>	The ODP agrees that all settings need to comply with most of the new federal regulations (some regulations pertain strictly to residential settings). ODP anticipates that guidance for all providers will be included in the following documents: <ul style="list-style-type: none"> • Guidelines regarding settings that have the effect of isolating individuals receiving Home and Community-Based Services (HCBS) from the broader community of individuals not receiving HCBS and settings that will be considered home and community based, and • Communication of expectations regarding meaningful day opportunities in non-disability specific settings. <p>Once these documents are developed and published, ODP will ensure that all providers are monitored for compliance. This could be achieved through current monitoring processes or new processes that will be developed.</p>
5	A thorough assessment of all settings is equally key and should be included in the transition plans. The plans should be clear that every setting in which any waiver service is provided – residential and non-residential, licensed and unlicensed – will be evaluated. <ul style="list-style-type: none"> • It is recommended that the Department do on-site visits of every setting. 	ODP will ensure that all providers are monitored for compliance with documents that will be developed and released regarding compliance with the new federal regulations. This could be achieved through current monitoring processes or new processes that will be developed. The current transition plans state that on-site monitoring tools will be revised to ensure compliance.

	<ul style="list-style-type: none"> On-site visits and other aspects of the settings assessment process should involve the participants, especially those in segregated settings such as personal care homes, sheltered workshops, and segregated day programs. Family members should also be involved. The transition plan should also state that monitoring and oversight reports will be made public regularly. <p><i>*One other similar comment was received</i></p>	<p>Once the monitoring and oversight process is complete, the final monitoring and oversight reports will be made available upon written request. The ODP will continue to examine ways to make final monitoring and oversight results accessible to stakeholders based on their level of interest.</p>
6	<p>The Department only states that regulations, licensing requirements, and other policies will be assessed. It is important that a thorough review of all written requirements be made with input by people with disabilities and family members. The Department appears to assert that some existing state regulations or other policies already comply with the new regulations. Such assertions should not wholly be accepted. Existing state requirements must be carefully scrutinized against the actual federal regulatory language. The Department should show 1) compliance with all actual federal regulatory language, and 2) how enforcement will take place. As one of many examples, the Department states that state licensing regulations already require Community Homes and Family Living Homes to provide day services (e.g., employment, education, and other “meaningful” opportunities) for individuals. The Department does not assert that these state regulations contain all of the federal requirements or that such compliance is actually taking place (which DHS could not show).</p> <p><i>*Two other similar comments were received</i></p>	<p>The ODP completed an initial assessment of licensing regulations to determine sections of those regulations that meet the new federal requirements, either partially or fully. The ODP did not intend to imply that the Department’s regulations are in full compliance with the new CMS requirements. The current transition plans contain action items for the ODP to review regulations, policies, service definitions, and conduct provider assessment activities to determine what changes are necessary to comply with the new CMS regulations. It is CMS’s expectation that the Department will show compliance with all federal regulatory language by March 2019.</p>
7	<p>The Department should provide assurance that all policies (regulations, standards, and other requirements) and implementation materials will align with all federal regulatory requirements as well as CMS guidance issued for residential and non-residential settings.</p>	<p>Sections 1 and 2 of the current transition plans include such assurances.</p>

	<ul style="list-style-type: none"> The Department should align all service definitions, not only employment service definitions. 	
8	The Department should utilize tools and other materials that follow all federal regulatory requirements and CMS guidance.	The ODP will revise or develop tools and other materials as necessary to ensure compliance with all federal regulatory requirements and CMS guidance.
9	<p>Broaden Concept of Services that Support Individuals in Non-Disability Specific Settings</p> <p>In each of the transition plans “assessment” notes, there is a list of the services available in the waiver with the notation, “Individuals may currently utilize the following [waiver] services to participate in non-disability settings...” This should be revised. All waiver services should support individuals in non-disability specific activities. Even residential habilitation services can and should support individuals to be involved in their communities, clubs, groups, teams, and activities outside of specialized waiver service programming or settings.</p>	The ODP agrees with these recommendations and has revised the transition plans accordingly.
10	<p>Despite the additional time and input, the deliverables remain vague and without sufficient definition and detail. Time is wasting. The time frames should be reconsidered so that there is sufficient time for training and implementation rather than exploration and assessment and other process activities. For example: Identify IT changes; taking three years to identify IT changes necessary for an accountable system is too long. June, 2015 should be adequate.</p> <p><i>*One other similar comment was received</i></p>	The current transition plan reflects general action items and target dates. As the ODP begins to implement the action items, the transition plans will be updated to include more details and target dates will be revised as necessary.
11	<p>ODP should use IM4Q (Individual Monitoring for Quality) and supports coordination monthly monitoring, PUNS (Prioritization of Urgency of Need for Services) information, and the licensing entity with which to begin assessing settings as ODP has a good deal of information already.</p> <p><i>*Two other similar comments received</i></p>	The current monitoring tools utilized by ODP do not capture all of the information needed to assess compliance with the CMS final rule. While some of the requirements contained in the CMS HCBS final rule are fairly straightforward, others require some interpretation by the state agencies implementing the rule. As such, the ODP will continue to engage in discussions with all interested parties regarding the CMS HCBS final rule to inform future decision making. Once policies have been developed regarding compliance, the ODP will look at whether the tools can be revised and utilized or whether new tools and monitoring

		methods will need to be developed.
12	<p>The licensing procedures currently followed by the state have no crosswalk between actual residents who will be living in a new property and current licensing requirements accept only a self-assessment for providers who already have licensed properties. Given this information, it is IMPOSSIBLE to determine whether a property is accessible to the residents. We would recommend that the first step the Department takes in reviewing accessibility would be to build in all accessibility features in the current self-assessment and monitoring tools. The licensing bureau should then use these newly modified tools to assess all living areas of the home through on-site inspection with current residents' needs as the basis for the inspection and relicensing. This should begin with any and all properties which have been licensed through the self-assessment process since the new entity for licensing was assigned/established. Without this step, it will be literally impossible to assess whether and which providers and waiver participants will need to make modifications or be moved.</p>	<p>The Department will keep this recommendation in mind while working with the Bureau of Human Services Licensing and in determining how to monitor compliance with the CMS final rule.</p>
13	<p>The focus of the plan is between providers and the Department. While there was a consideration of providers choosing not to continue as providers there is little or nothing to indicate the Department taking action to remove providers who fail to come into compliance with the newly required standards and timelines for such actions. We must acknowledge that these are not recommendations but REQUIREMENTS. The timelines for decision making by providers and the Department about individuals who will need to change service providers due to compliance issues must allow for the extensive transition work to take place prior to the deadline of March 2019. Notifications, training needed by supports coordinators and administrative entities, and the changes and/or possible expansion needed to be made by providers in order to continue providing supports to waiver recipients without interruption or a loss of Federal funding</p>	<p>The ODP agrees that there are many actions that need to be taken in the next four years to achieve compliance. The current transition plans state in the unallowable settings and settings presumed not eligible sections that, providers who are found to be noncompliant must provide a plan to become compliant or stop providing waiver services. The ODP agrees that a similar action is not included in the other sections of the transition plan and the transition plans will be revised to reflect this recommendation.</p>

	<p>needs to be made as soon as a potential issue is discovered. The full understanding of what a provider is willing to change or the need to find alternate providers for individuals must be paramount in all of this planning. The communication of these circumstances must be made in real time to all stakeholders. Individuals and their families need to be included in each step of this process; making decisions for themselves and their family members but also advising the Department on critical issues that only those of us experiencing the system(s) can truly relate. This process, when changes in providers or service locations will be necessary, will take time and as much time as possible must be allotted.</p>	
	<p>Comments Received on Section 3: Remediation Strategies Unallowable Settings</p>	
	<p>Summary of Comment</p>	<p>Response</p>
<p>1</p>	<p>The transition plans should provide that no new participant can get services in a non-compliant or presumptively non-compliant setting. The plans should also state that the Department will not allow new providers, provider moves, or expansion of providers in settings that are non-compliant or presumed non-compliant.</p>	<p>The transition plans already contain time frames for ensuring new providers enrolling to render waiver services and existing providers moving their service location are in allowable settings. This action item will be revised to include expansion of providers based upon this comment.</p>
<p>2</p>	<p>Remediation Strategies should state that persons who will have to transfer from non-compliant or presumed non-compliant settings will get advance, accessible notice through a phone call and/or visit from the Supports Coordinator in addition to a letter, which will ensure that this important information is received and understood.</p>	<p>This recommendation will be considered as the ODP begins to implement the transition plans. It is highly likely that Supports Coordinators will be required to call or visit with the participant. If this is made a requirement for Supports Coordinators the transition plans will be updated and made publicly available.</p>
<p>3</p>	<p>The Department should work with providers to develop services in compliant settings when needed to ensure participants' access to services in the community. The Department should ensure that individuals do not end up without services for any period of time, in institutions, or in other segregated settings.</p>	<p>The plans have been revised to reflect that the ODP will work with providers to develop services in compliant settings. Ultimately the ODP is committed to making sure individuals with an intellectual disability or autism have the services they need to achieve greater independence, choice, and opportunity in their lives.</p>

4	<p>Very early in the plan, develop standards that clearly define allowable settings so providers know where they stand and, where necessary, allow the maximum time available to make changes to meet the allowable settings standards if the provider wants to continue serving waiver participants. These standards should be measurable and include freedom, dignity, control, daily routines, privacy and community integration in order to be consistent with the new rule.</p>	<p>The unallowable settings section of the transition plans have been revised to list one of the first steps as “develop and publish guidelines with stakeholder input regarding settings that have the effect of isolating individuals...” ODP anticipates this will include discussion regarding standards for allowable settings including freedom, dignity, control, daily routines, privacy and community integration.</p>
5	<p>If Intermediate Care Facilities for Individuals with an Intellectual Disability (ICFs/ID) can no longer offer their day programs in the same location, who is paying for new location costs and new transportation costs to move the consumers to and from these new day programs? If the ICF provider cannot fund new day service locations, will this then increase the need for more full-time residential staff since these individuals may no longer have day program options so will be staying in their homes/residences?</p>	<p>The CMS Final Rule does not apply to ICF/ID providers that are subject to 42 CFR 483.400 – 483.480. For the purposes of these transition plans, the CMS Final Rule solely applies to services provided in ODP’s 1915(c) waivers which include the Consolidated, P/FDS and Adult Autism Waivers. The unallowable settings section of the transition plans have been revised to list one of the first steps as “develop and publish guidelines with stakeholder input regarding settings that have the effect of isolating individuals...” The ODP anticipates this will include a discussion of whether stakeholders believe criteria should be established regarding where providers are located. The Department is also developing a survey that will seek input from providers. The ODP will then develop the policy, examine any fiscal impacts and publish the policy after considering all stakeholder input.</p>
6	<p>The federal requirements for home and community based setting do not include a nursing facility, institution for mental disease, ICF/ID (Intermediate Care Facility for Persons with Intellectual Disabilities) or hospital setting. I encourage Pennsylvania to adopt the same requirements and not add further restrictions on their definition of “Community”. The CMS directive specifically quotes that a determination of “home and community” “will not be based on physical location but a person’s experiences and access to the community.”</p> <p><i>*Two other similar comments were received</i></p>	<p>The unallowable settings section of the transition plans have been revised to state that guidelines will be developed and published “with stakeholder input regarding settings that have the effect of isolating individuals...” The ODP anticipates this will include a discussion of whether stakeholders believe criteria should be established regarding where providers are located. The Department is also developing a survey that will seek input from providers. The ODP will then develop the policy, examine any fiscal impacts and publish the policy after considering all stakeholder input.</p>
7	<p>Determining if a setting is “unallowable” should be a process that includes the input and experiences of consumers and</p>	<p>As stated in the current transition plans, ODP will develop guidelines with stakeholder input regarding settings that have the effect of</p>

	families regarding community integration and should not simply be determined on setting location. Develop an appeal process in which the provider can appeal the determination if deemed “unallowable”	isolating individuals. An appeal process for providers is already established through 55 Pa. Code Chapter 41.
8	Time to transition individuals needs to be expanded beyond 6 months as the process will be timely and this does not allow time for research and transition.	Without knowing how many providers and individuals will be impacted, ODP provided a 6 month estimate based on past experiences with transitioning. Once ODP has determined how many providers and individuals will be impacted, if more time is needed the transition plan will be updated to extend the amount of time needed for transition.
9	To aid in the transitions which will need to take place for individuals choosing to leave residential programs and live in their own homes and apartments there needs to be a plan put in place to provide support brokers and home and vehicle modification funding available during the transition process. Without these supports such moves will be impossible. This change will require a modification to the service definitions to allow these services to be made available to this group; currently excluded from these services.	The current transition plans state that waiver service definitions will be reviewed to determine which changes will be necessary. This recommendation will be considered during this process.
Comments Received on Section 3: Remediation Strategies Settings Presumed Not Eligible		
	Summary of Comment	Response
1	ODP must identify more than an address to determine if the setting is isolating.	The ODP agrees with this comment and has revised the transition plans.
2	Presumptively non-compliant settings should not remain in the system. The existing Home and Community-Based Services (HCBS) quality assurance processes and the new HCBS Guidelines should reflect all federal regulatory requirements for presumptively noncompliant settings as well as CMS guidance. <ul style="list-style-type: none"> The Department should evaluate thoroughly all residential and non-residential settings that are farmstead or disability-specific farm communities, gated/secured 	Policies and guidance must be developed before the ODP can assess compliance with such policies and guidelines. ODP will comply with CMS requirements on disclosure of findings.

	<p>communities for people with disabilities, residential schools, or “multiple settings co-located and operationally related that congregate a large number of people with disabilities together and provide for significant shared programming and staff such that people’s ability to interact with the broader community is limited.”</p> <ul style="list-style-type: none"> • The Department should also carefully assess campuses that have residential and/or non-residential waiver services on the campus or next to the campus. These settings should be assessed if any waiver service is provided there, not just the waiver services listed by the Department. These concerning settings exist across Pennsylvania. They isolate individuals with disabilities in an artificial environment away from the community. While some people may leave the setting for a few hours a week, often in groups, that is very limited community access. Bringing individuals from the community onto the segregated site periodically does not resolve the isolating nature of the site, either. • If for some reason the Department wants to ask CMS to retain a presumptively non-compliant provider in its system, the Department should share with the public the evidence it intends to submit to CMS and follow all public notice and public comment requirements. Presumed non-complaint Adult Autism Waiver providers need a deadline for submitting information to the Department. 	
3	<p>The Department’s reports or notices concerning providers should be made public (and not strictly through online means) and include: provider, compliance status, location, services provided, waivers involved, number of participants served, and number of participants under age 21 served. No personally-identifiable or confidential information should be publicly disclosed. CMS’s heightened scrutiny determinations –</p>	<p>The ODP will comply with CMS requirements on disclosure of findings.</p> <p>The ODP agrees that CMS’ heightened scrutiny determinations should be disclosed in a public notice. The transition plan has been revised to reflect this.</p>

	<p>not just the Department’s decision to submit to CMS for a decision – should be in a Public Notice.</p> <p><i>*One other similar comment was received</i></p>	
4	<p>The system needs more compliant providers in all counties to address all needs of the person. Lack of access to services leads to health and safety issues and/or institutionalization.</p> <ul style="list-style-type: none"> • The Department should define “access issues” and how it will determine and remedy “access issues.” 	<p>The transition plans have been revised to define “access issues.”</p>
5	<p>Revise 55 Pa. §51.3 and 51.14 to disallow residential settings where waiver participants live to be next to, side-by-side or back-to-back with group homes serving other populations.</p>	<p>The ODP is currently working with stakeholders to revise 55 Pa. Code Chapter 51 regulations. This recommendation will be discussed in the regulation revision workgroups.</p>
6	<p>We recommend that these “guidelines” ultimately become rules or regulation in Pennsylvania so that monitoring and enforcement are available remedies to ODP. We, further recommend that ODP adopt the following criteria from the federal guidance on settings that have the effect of isolating individuals:</p> <p>Presume that settings that meet the following have the effect of isolating:</p> <ul style="list-style-type: none"> •The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability. •The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them. •The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities. •People in the setting have limited, if any, interaction with the broader community. •Settings that use/authorize interventions/restrictions that are 	<p>The ODP is currently working with stakeholders to revise 55 Pa. Code Chapter 51 regulations. This recommendation will be discussed in the regulation revision workgroups.</p>

	used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).	
7	<p>There is the issue of service providers' locations not being next to other providers, state facilities, or other individuals with a disability. This should be determined on an individual provider basis because some locations may literally be across the street from state facilities but next door is a shopping plaza and behind it is a housing development, all community inclusive options. This is especially true in more rural areas and may be the best location for a disabled individual given transportation issues. There has to be flexibility.</p> <p><i>*One other similar comment was received</i></p>	<p>The current transition plans state that guidelines will be developed and published "with stakeholder input regarding settings that have the effect of isolating individuals..." The ODP anticipates this will include a discussion of whether stakeholders believe criteria should be established regarding where providers are located.</p>
8	<p>If "Not allowable" service locations must move, the state and federal funding streams must address who is paying for remainder of lease terms. Furthermore, where is the provider to obtain these monies since the state's Fee-for Service rate schedules have many providers in financial distress? In addition, the state's cost based rates for residential services have just been the focus of a settlement due to financial losses. Where will the funding come from to pay for new locations (leases, which include security deposits, first and last month's rents) as well as transporting clients?</p> <p><i>*One other similar comment was received</i></p>	<p>The unallowable setting section of the transition plans have been revised to reflect that policy will be developed with stakeholder input regarding settings that have the effect of isolating individuals receiving HCBS from the broader community of individuals not receiving HCBS and settings that will be considered home and community-based. The ODP anticipates this will include a discussion of whether stakeholders believe criteria should be established regarding where providers are located. Once the ODP has developed and published the policy after considering stakeholder input, the ODP will examine the financial impacts to providers. This step has been added to the Internal Assessment Section of the transition plans.</p>
9	<p>How are individuals receiving services in ineligible settings to locate other providers and options? Many of these ineligible settings are in rural areas with limited or no other service options to select other providers without having to move away from their homes. How will they obtain transportation to these new providers?</p>	<p>Current ODP policies state that the Supports Coordinator is responsible to provide information regarding potential qualified providers for needed services to the individual. The individual shall exercise choice in the selection of qualified providers. The Supports Coordinator is responsible to make referrals to chosen providers promptly based on the selections made by the individual so that needed services and supports are secured to ensure the individual's health and safety.</p> <p>As stated in the current transition plans, ODP will review service definitions to determine if changes need to be made. This will include a</p>

		review of transportation services to determine whether they continue to meet the needs of the individuals we serve.
10	<p>States are required to offer a “variety of settings”. Consumers and families should have choices to assure they have appropriate supports to allow for their health and safety in both their vocational and residential needs. We are effectively denying some people the right to work based on the level of support they need by removing services such as center based prevocational facilities. Some people with medical and/or behavioral needs that effect their health and safety are being challenged and working to their potential in a supervised prevocational center. By eliminating such options, these individuals with medical and behavioral needs will need to move to more restrictive and costly program options such as an ATF (Adult Treatment Facility), an adult daycare or leave their home and community to receive ICF/ID (Intermediate Care Facility for Persons with Intellectual Disabilities) services. Many people who work in complete employment receive only minimal hours, poor shifts, and lack of public transportation in rural areas makes it very difficult to get jobs at all. Many report not being “included” and are often more segregated than their peers in a prevocational program.</p> <p><i>*196 other similar comments were received</i></p>	<p>At this point, no decisions have been made that would deny people the right to work. As stated in the current transition plans, ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals. ODP anticipates that these guidelines will cover expectations for employment services including prevocational facilities and licensed day habilitation. The transition plans also state that waiver service definitions will be reviewed and may be revised or new service definitions may be developed to meet the needs of individuals.</p>
11	<p>For settings presumed not eligible, the federal requirements state the following:</p> <ul style="list-style-type: none"> • settings in a publically or privately owned facility that provides inpatient treatment” • setting on grounds or immediately adjacent to public Institution • setting that has the effect of isolating individuals receiving Home and Community-Based Services (HCBS) from the broader community <p>Stating that a property must be surrounded by individuals and</p>	<p>ODP has regulations at 55 Pa. Code Chapter 51, relating to ODP’s Home and Community-Based Services. The definition is, “Waiver residential habilitation service locations that are located throughout the community, surrounded by individuals and businesses that are not funded by ODP, are not next to each other, side-by-side or back-to-back. Locations that share one common party wall are not considered contiguous.”</p> <p>Regarding campuses, the federal government states that “multiple settings co-located and operationally related that congregate a large number of people with disabilities together and provide for significant</p>

	<p>businesses that are not funded by ODP, the needs in rural parts of the state often differ greatly for businesses and residences in urban settings.</p> <p>Clarify “integrated and dispersed in the community” The federal requirements never refer to campuses as being not in the community or unallowable. Many “campuses” such as colleges or senior living places are large contributors to communities at large and encourage interaction not isolation.</p> <p><i>*One other similar comment was received</i></p>	<p>shared programing and staff” are presumed not eligible.</p>
12	<p>While assessing providers presumed not eligible, look at an individual’s full day and life as opposed to where they choose to work for a portion of their day, to determine if the person’s ability to interact with the community is limited</p>	<p>As stated in the current transition plans, the ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals. The ODP anticipates that these guidelines will cover expectations for employment services including prevocational facilities and licensed day habilitation.</p>
13	<p>Allow for providers who do meet the federal guidelines to be “grandfathered” in to the more restrictive definitions set forth by Pennsylvania allow them to continue to provide services to those who choose them.</p> <p><i>*One other similar comment was received</i></p>	<p>CMS states that “a state cannot choose to continue to provide a home and community-based service in noncompliant settings under a grandfathering approach.”</p>
14	<p>If individuals and the Individual Support Plan teams determine a particular setting is the least restrictive and meets federal guidelines then that provider should be an option.</p> <p><i>*One other similar comment was received</i></p>	<p>In order for a provider to receive waiver funding, the setting must meet the requirements in the policies and guidance that will be developed as well as waiver service definitions. The setting must also be determined eligible based on CMS heightened scrutiny process.</p>
15	<p>Access issues will occur if Pennsylvania makes the definitions more restrictive than Federal guidelines especially in rural communities. Issue to be addressed: support to increase program capacity and transportation.</p> <p><i>*One other similar comment was received</i></p>	<p>As stated in the current transition plans, the ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals. The ODP anticipates that these guidelines will cover settings in rural communities.</p>
16	<p>There continues to be a large issue with CMS not providing additional guidance in this area as to clearly define “isolation”</p>	<p>While CMS has not clearly defined isolation, they have given states the flexibility to define isolation and integration in a way that meets the</p>

	<p>related to organizations that provide community integrated supports in adult day and vocational training or even unfunded programs such as adult literacy, art or recreation programs. It is uncharacteristic and offensive that CMS and possibly ODP would view a community based specialized nonprofit agency that has been established to provide community based supports to a class of people with Intellectual disabilities who are supported by paid employees as being not eligible to receive Medicaid funding under a presumption of non-eligibility .</p>	<p>unique needs of the individuals they serve. As stated in the current transition plans, the ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals.</p>
17	<p>While assessing settings to determine whether they isolate, the action step that says that the Department will assess the provider service location, this is inadequate. The federal guidelines are asking Pennsylvania to assess the individual's experience. You can't assess a provider without actually assessing the nature and quality of an individual's experience as part of their day services or residential services. And some settings, in one home or day setting may serve to isolate more than another, and so a provider wide assessment is not going to get to the core of are the people receiving services there isolated from their community and what does that mean to them. So I encourage you to go down the road of individualized person centered assessment of their experience in the system to determine whether or not they have a real home and community based service in place.</p> <p><i>*Two other similar comment was received</i></p>	<p>The current transition plans state that guidelines will be developed and published "with stakeholder input regarding settings that have the effect of isolating individuals..." The ODP anticipates this will include a discussion of whether stakeholders believe criteria should be established regarding where providers are located or whether compliance should be based on each individual's experiences. The Department is also developing a survey that will seek input from providers. The ODP will then develop and publish the policy after considering all stakeholder input.</p>
18	<p>The Transition Plan narrows the focus of service choice and is restrictive in service choice. The Transition Plan deviates from the position of the United States Department of Justice, Civil Rights Division, which supports the concept of choice and therefore a continuum of services. If the Transition Plan imposes restrictions on service choice, such restrictions go against the spirit of the Olmstead decision and are contrary to the lack of choice issue which was corrected by the decision.</p>	<p>At this point in time, no decisions have been made that would limit service choice from what is currently available through the waivers. Individuals will always have choice of settings that meet regulatory requirements, waiver service definitions, and policies.</p> <p>The currently approved Waivers were developed to provide an array of services and supports in community-integrated settings.</p>

	<p>The Supreme Court’s Olmstead decision that specifically requires services be provided “in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”</p>	<p>The Supports Coordination service definitions state that Supports Coordinators are to “use a person centered planning approach and a team process to develop the participant’s ISP to meet the participant’s needs in the least restrictive manner possible.”</p> <p>The Consolidated Waiver has criteria related to Residential Habilitation which are designed to support the selection of the least restrictive and most integrated setting for this service that will meet the needs of the participant.</p> <p>The Consolidated Waiver also states that responsibilities related to Supports Coordination Organizations include advocating for continuity of services, system flexibility and integration, proper utilization of facilities and resources, accessibility, and participant rights.</p>
19	<p>One commenter stated that although the guidance targets intentional communities, farmsteads and other congregate settings as potentially isolating, the Final Rule does not. The broad range of abilities of waiver recipients necessitates more options, not fewer. Parents are very concerned about their children’s choices being limited.</p>	<p>It is correct that the regulations do not specifically list intentional communities, farmsteads, and other congregate settings as presumed not eligible. However, CMS guidance sets forth that these types of settings “typically have the effect of isolating people receiving Home and Community-Based services from the broader community”.</p> <p>As stated in the current transition plans, the ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals and ensuring individuals are integrated in the community.</p> <p>The ODP anticipates that these guidelines will cover settings that are farmsteads or disability-specific farm communities, gated/secured communities for people with disabilities, residential schools, or multiple settings co-located and operationally related that congregate a large number of people with disabilities together.</p>
20	<p>The definition of group home has a negative connotation without true understanding of the benefits. Maybe these places are not isolating but in fact encourage socialization and provide safety for those who are the most vulnerable.</p>	<p>As stated in the current transition plans, the ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals. The ODP anticipates that these guidelines will cover expectations for group homes.</p>

21	<p>In our review of the proposed transition plan, we believe that the individuals with severe multiple disabilities are being overlooked and their pervasive needs are not being considered in the development of this plan. While we are not inherently opposed to CMS final rule and appreciate the intent of the rule, we are concerned about the lack of consideration or planning for all individuals within the disabilities community especially those with the most significant disabilities. Additionally, the state proposed transition plan also fails to show any consideration for these individuals in planning for their unique comprehensive service needs. The final rule specifies that each individual person center plan is “driven by the individual” and should be based on “specific assessed needs reflecting the individual’s preferences while ensuring health and safety.”</p>	<p>While the transition plans don’t specifically list action items for individuals with severe multiple disabilities, the ODP is implementing other initiatives that focus on this population. One of these is ODP’s joint initiative with the Office of Mental Health and Substance Abuse Services called the Positive Practice Resource Team. The team is in place to serve individuals with a developmental disability who demonstrate at-risk behavioral challenges and who are determined to need enhanced levels of support not readily known, or available to them. More information on this initiative can be found on the DHS website at http://www.dhs.state.pa.us/communitypartners/informationforadvocatesandstakeholders/positivepracticesresourcetemppt/.</p> <p>While the Adult Autism Waiver (AAW) transition plan does not specifically list action items for individuals with severe multiple disabilities, the AAW is responsible to transition all participants, regardless of their unique comprehensive service needs. The Bureau of Autism Services has a clinical team to assist in transitioning participants with significant needs.</p> <p>Further, ODP’s Futures Planning Process has a team whose objective is to “Integrate flexible models of service that can support people’s changing needs in their home communities, including supporting people through a physical or behavioral health crisis.” This group will be developing tools and resources that may be utilized if individuals need to transition to a new service provider.</p>
22	<p>The Department must identify, acknowledge and advocate that services do exist and can continue to exist on the grounds of privately owned Intermediate Care Facilities, which clearly meet and/or exceed the qualities of the Home and Community-Based Services Final Rule, and in no way isolates or discourages community involvement.</p>	<p>The current transition plans state that guidelines will be developed and published “with stakeholder input regarding settings that have the effect of isolating individuals...” The ODP anticipates this will include a discussion of whether stakeholders believe criteria should be established regarding where providers are located. The Department is also developing a survey that will seek input from providers. The ODP will then develop and publish the policy after considering all stakeholder input.</p>
23	<p>The Department must understand that there are disabled</p>	<p>The transition plans have been revised to reflect that setting locations</p>

	<p>individuals with such severe and complex issues who are not capable of living under some of the proposed expectations. Having the ability to offer so many different training and programming options substantiates the need and value of having Adult Day and Workshop Programs for adults and adolescents. The value of specialized services cannot be measured in who is employed and living independently versus those who are not, but more so in the quality of services and the availability of options for everyone across the entire spectrum of the disabled community. Having a continuum of services and opportunities tailored for each population's specific needs is something that every member of society wants and deserves. We talk about choice, yet with the proposed transition plan and the clearly stated guidelines in reference to unallowable locations on the grounds of or adjacent to a public or private institution eliminates choice for those who have attended such programs for most of their lives. Where is their choice to continue in a program that is meaningful and provides a fullness of life?</p>	<p>are not the only criteria for determining whether a setting is unallowable. ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals. ODP anticipates that this will include discussion of specialized settings.</p>
24	<p>The plan must presume ineligible all settings which congregate a large number of people with disabilities and where access to the broader community is limited. ODP must transition away from segregated settings and develop policies which prohibit provision of service in segregated settings without first offering services within the community.</p>	<p>The current transition plans state that guidelines will be developed and published "with stakeholder input regarding settings that have the effect of isolating individuals..." ODP anticipates this will include a discussion of what stakeholders considered to be segregated settings.</p>
<p>Comments Received on Section 3: Remediation Strategies All Settings Must Meet the Following Qualifications</p>		
	<p>Summary of Comment</p>	<p>Response</p>
1	<p>The Departments repeated statement that it will "develop and communicate expectations" is too vague.</p>	<p>This statement as quoted is not contained in the transition plans for the Consolidated, P/FDS, and Adult Autism Waivers.</p>
2	<p>We ask ODP to reconsider the definition of "unit" to account for a wider variety of shared living settings.</p>	<p>CMS utilizes the term "unit" in several different requirements. ODP is unclear at this time whether the comment was referring to a specific requirement or all requirements where CMS referred to a unit.</p>

3	<p>Define “unit” and use the term consistently. In relation to the federal requirement regarding choice of roommates, the transition plan appears to refer to a bedroom as a “unit.” In relation to the regulation on privacy and having lockable doors, the plans seem to infer that a “unit” is a household. We recommend that “unit” refer to household and it be used consistently throughout the transition plan. The choice to live without roommates must be an option.</p> <p><i>* Three other similar comments were received</i></p>	<p>CMS utilizes several definitions of “unit” depending on the requirement. The current transition plans reflect CMS’ definitions. The ODP agrees that it is best practice for individuals to choose with whom they live however we recognize that there are situations where this may not be possible. Individuals are currently offered the choice to live in a setting that is based on the individual’s needs, preferences, and resources available for rent/room and board.</p>
4	<p>We ask the Department and ODP to take a definitive stance against the use of restraint on people with disabilities in these amendments and commit to phasing out the use of restraints in Pennsylvania, in order to ensure the right of people with disabilities to “dignity and respect, and freedom from coercion and restraint” (441.301(c)(5)).</p>	<p>The ODP has published the following bulletins which state that ODP’s goal is to reduce and eventually eliminate restraint except in situations of immediate jeopardy and imminent danger:</p> <ul style="list-style-type: none"> • 00-06-09 – Elimination of Restraints through Positive Practices • 3800-09-02 – Prone Restraints in Children’s Facilities • 3800-09-01 – Strategies and Practices to Eliminate the Use of Unnecessary Restraints <p>The Adult Autism waiver is clear on its mission to eliminate restraints as a response to challenging behaviors. BAS articulated a policy to prevent restraint use in a provider manual for all providers and in a manual specifically for supports coordinators.</p> <p>The ODP is currently reviewing these policies as well as data on restraints that are occurring to determine if revisions to the policies are needed.</p>
5	<p>Ensure autonomy, independence in choice-making in addition to developing training tools, ODP should assess the barriers to individual initiative, autonomy and independence in choice-making created by rules (from regulation to provider policies on staffing) and rates and plan to address these barriers.</p>	<p>The Department has included the following question in a survey that will be sent to all waiver providers. The ODP will include the discussion of barriers in the development of policies and guidance regarding isolation and integration.</p>
6	<p>Choice of settings and private rooms: For those not currently living in those settings, what is the timeframe for agencies and the supports coordinators to locate other living options of these individual’s choice and what financial assistance will</p>	<p>The current transition plans list the timeframes for Supports Coordinators to identify other service options. If more time is needed, the transition plans will be revised to reflect new timeframes. CMS has stated that they are not “requiring that every individual receiving HCBS</p>

	CMS/the Department give providers that need to now purchase or lease homes with more bedrooms to offer this options, plus the moving costs?	have their own bedroom when receiving residential services. The rule is requiring that individuals be provided options of residential settings, including an option of a private room. This rule does not require every provider to have a private room option. Instead it requires the State to ensure that there are private room options available within a state’s HCBS program.” The Department is currently developing a survey to be sent to all waiver providers. The survey requests that providers of residential habilitation services state whether the service location offers an option for a private bedroom and how many participants at the location share a bedroom. The ODP will initially examine potential financial impacts to providers based on the responses to this survey. An action item has been added to the Internal Assessment Section of the transition plans that states that the ODP will analyze fiscal impacts of implementing the CMS final rule to waiver providers.
7	I would encourage you to look at and revise service definitions for both Prevocational and ATF (Adult Treatment Facility) to allow for a combination of all levels of services – prevocational, ATF, volunteer, supported and competitive employment. We need to be able to address ALL needs of a person! Some individuals who are competitively employed may still need prevocational and life skills support to maintain that position.	The current transition plan states that all waiver service definitions will be reviewed and revised as needed.
8	Define “meaningful” and define standards used to determine disability specific activities being “non meaningful” <i>*One other similar comment was received.</i>	The ODP anticipates that defining meaningful day opportunities is part of this action item.
9	Assess choice - a person truly does not have choice if options are removed	Individuals will always have a choice of settings that meet federal and state regulatory requirements, waiver service definitions, and policies.
Comments Received on Section 3: Remediation Strategies All Settings Must Meet the Following Qualifications Specific to Employment		
	Summary of Comment	Response
1	For data collection related to Federal Requirement	The ODP consulted with the State Employment Leadership Network

	<p>441.301(c)(4) on integrated settings, the plan proposes to explore employment data collection systems. Pennsylvania has been a member of the State Employment Leadership Network (SELN) for several years. The network, housed in and supported by National Association of State Directors of Developmental Disabilities Services (NASDDDS) has infinite resources for states exploring the expansion of employment opportunities for its citizens. Please do not recreate the wheel. Utilize the expertise of the SELN to identify the best data collection system for Pennsylvania.</p> <p><i>*One other similar comment was received</i></p>	<p>(SELN) to determine what data should be collected and how to capture it using enhancements to our current system or a stand-alone data collection system.</p>
2	<p>Pennsylvania needs to create and disseminate an Employment First policy applicable to all working age adults that clearly articulates values and principles and identifies the direction in which the systems are moving.</p> <p><i>*Three other similar comments were received</i></p>	<p>Pennsylvania is a participant in the Employment First State Leadership Mentoring Program, a program conducted by the Federal Office of Disability Employment Policy. Under this program grant, technical assistance from national subject matter experts will be provided to Pennsylvania to develop an Executive Order on Employment that will clearly articulate employment principles for people with all disabilities. This is a collaborative effort with all PA Medicaid agencies, the Pennsylvania Department of Education, the Office of Vocational Rehabilitation, and the Bureau of Workforce Development participating. The transition plans have been revised to include the development and publication of the Executive Order on Employment.</p>

3	<p>Develop a qualified workforce and a service system of well qualified providers. Establish competencies for the provision of employment services that include initial and ongoing training requirements and national certification such as APSE (Association for Persons in Supported Employment) Certified Employment Support Professional (CESP), or certification by the Association of Community Rehabilitation Educators (ACRE), or other nationally recognized programs. Adopt licensing regulations to ensure minimally adequate services. Apply competency based training for all facets of service provision: employment assessment, career development plans, job creation, job development, job coaching, and coordination of those services. Requirements should also include specific training related to the characteristics of the person to be served, i.e., individuals with autism, an intellectual disability, or behavioral health diagnosis.</p>	<p>The ODP plans to establish and implement trainings and competencies for all providers of employment services.</p>
4	<p>Engage with the education system to promote and support employment as the first and preferred option and that work experiences are offered as part of the educational process. Develop meaningful transition planning starting at age 14 directed to employment as the first and preferred option. Ensure that work experiences exist prior to graduation and/or leaving school. Individual planning requirements contained in regulations and policy must be reviewed and included as well.</p>	<p>The ODP, the Office of Vocational Rehabilitation, the Bureau of Workforce Development and PA Department of Education are working collaboratively to ensure that meaningful transition planning begins at age 14 and that each student will have a community paid work experience prior to graduation. The transition plans have been revised to reflect collaboration with these departments and offices.</p>
5	<p>Ensure that policies promulgated from all departments promote employment both in policy and procedure.</p>	<p>It is the intention of the Department of Human Services that all departments will promote employment first.</p>
6	<p>Establish one set of service definitions and a standard set of rates with area rates, as in the current ODP model, across the Departments programs including the Bureau of Autism Services, Behavioral Health, ODP, Office of Long Term Living, and other programs. In subsequent years, extend standardization to Labor & Industry/Office of Vocational Rehabilitation definitions and rates. Realign rates of reimbursement to incentivize employment. Develop one set of contractual expectations.</p>	<p>Planning with the Office of Vocational Rehabilitation has been ongoing to determine a standard rate and payment model.</p> <p>As part of the transition process, the Department plans to examine standardization of service definitions and rates.</p>

7	<p>The transition plans should ensure that waiver funding will not be used for settings that are not integrated, such as sheltered workshops, or to support the subminimum wage for persons with disabilities. Any waiver-funded pre-vocational training program should have specific timelines and measurable outcomes, and lead to customized, competitive employment chosen by the participant.</p> <ul style="list-style-type: none">• Adult Training Facilities regulations should be carefully scrutinized to assure compliance with the new federal regulations• The transition plans should have steps to develop services, supports, and opportunities for people with disabilities to learn and build job-related skills, get training, seek employment, and get and maintain competitive employment. This includes, for example, adding to the waivers more employment services such as job coaching, job searching, self-employment support, supported employment, and other services. The Department's education of and collaboration with persons with disabilities, family members, providers, Supports Coordinators, employers, and other state agencies needs to be systematic and widespread. Participants also need opportunities to learn about work incentives and maintaining benefits while working.	<p>The ODP will ensure that we will meet the compliance requirements for the CMS Final Rule. Outreach, education and trainings for all stakeholders will be provided.</p>
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8	<p>A decision is needed to implement a statewide system for a robust data collection to measure change during each fiscal year in both quantitative and qualitative measures. Reports should be made public.</p> <p><i>*One other similar comment was received</i></p> <p>EmployStat used in Philadelphia and Chester County is an existing data system that has many of the required features and could be modified as needed and expanded for statewide use. Too much time has already been lost; another year of data will be lost. At a minimum, collect provider data to establish a baseline for this year.</p>	<p>The ODP consulted with the Statewide Employment Leadership Network (SELN) to determine what data should be collected and how to capture it using enhancements to our current system or a stand-alone system for data collection. Reports will be made to the public when this is completed.</p> <p>The ODP will be using many of the features of the EmployStat System used in Philadelphia and Chester County in enhancements to our current system or a stand-alone system.</p>
9	<p>We encourage ODP to add the necessary employment information fields to current data collection systems as quickly as possible.</p>	<p>The transition plans currently reflect exploration of employment data collection systems and the timeframes in which ODP believes this can be accomplished.</p>
10	<p>Examine best practices for providing employment supports. Develop plans with providers in how to build skills through training and technical assistance, in providing employment services and home and community habilitation services. Engage providers in identifying what is necessary to accomplish the desired outcomes and developing strategies to be successful. Without adequate attention to building capacity, the service system will not meet the needs of the individuals it is intended to serve.</p>	<p>The ODP plans to engage providers to identify changes needed to the current system to increase employment outcomes.</p>
11	<p>Employment First will work for some but not those with severe intellectual limitations along with physical and behavioral issues. The federal Workforce Innovations and Opportunities Act requiring the state's Office of Vocational Rehabilitation to offer vocational rehabilitation, supported employment and job coaching services earlier to transition age youth may help more with those with intellectual or developmental disabilities being able to move into competitive employment during their school years. Other employment issues include the lack of</p>	<p>The ODP is working with PA Department of Education, the Office of Vocational Rehabilitation, and the Bureau of Workforce Development to provide employment experiences to students prior to graduation.</p>

	public transportation in Pennsylvania’s many rural areas which would be needed to allow these individuals to get to work if any business/employment options are actually available. In addition, these remote rural areas often have limited business options and higher unemployment rates than in more populated areas.	
12	I encourage looking at actual employment data divided out by location, region, age and disabilities. Actual number of hours worked, and job longevity.	The ODP will be able to collect all of this data under planned enhancements to our current system or a stand-alone data system.
13	The Department should adopt the eligibility criteria of the Pennsylvania’s Office of Vocational Rehabilitation (OVR) as well as their system of performance based contracting would provide a good framework for defining these services in the Transition Plan. The Department should establish one set of service definitions and a standard set of rates with area rates. In addition, the Department should collaborate with the Department of Labor and Industry to ensure that budget requests submitted to the Governor's Office include adequate funding for these efforts <i>*Four other similar comments were received</i>	ODP is collaborating with the Office of Vocational Rehabilitation to enhance opportunities for integrated community employment. As part of the transition process, the Department plans to examine standardization of service definitions and rates. ODP is working collaboratively with the Office of Vocational Rehabilitation to create some blended funding collaborations to ensure maximum efficiency of all of our resources.
14	Review service definitions to include volunteer work as a means of developing paid work and transference of skills to setting that they would be applied leading to better success. <i>*One other similar comment was received</i>	The Consolidated and P/FDS waivers currently allow assistance with volunteer work through the home and community habilitation service. The Adult Autism Waiver also allows assistance with volunteer work through the community inclusion service. ODP anticipates that assistance with volunteer work will continue to be allowed. Service definitions will be reviewed and may be revised or new service definitions may be developed to meet the volunteer work needs of individuals.
15	The disparity in funding illustrates the inequitable funding obstacle to achieve the ideal of community integration for all. Individualized funding has its limits and it is wise for public entities to take this into consideration when establishing the Transition Plan. This raises the question posed by the Department of Justice in implementing the Olmstead decision	ODP will examine all aspects of employment services including costs before making changes to our system to come into compliance with the CMS Final Rule.

	<p>regarding the available resources to public entities responsible for funding services. Funding of high support levels to maintain competitive employment could be cost prohibitive. Although the Transition Plan emphasizes community based employment and thus supported employment services to achieve that end, once again, such options cannot be an imposed “choice.”</p> <p>The Transition Plan should be definitive in establishing individual eligibility for funding for supported employment or other employment services. Adopting the eligibility criteria of Pennsylvania’s Office of Vocational Rehabilitation (OVR) as well as their system of performance based contracting would provide a good framework for defining these services in the Transition Plan. Using OVR’s standards will identify eligible and motivated candidates for this service as well as enhancing the employment outcomes.</p> <p>Removing sheltered workshops could end up costing so much more than providing a safe comfortable environment for our loved ones who thrive there. Commenters realize there are parents/advocates on both sides (community-competitive vs sheltered workshop) of the issue concerning employment. Each group along with ODP should acknowledge the validity of providing sufficient funds, policies and staff for clients who benefit from one or the other approach. However, those advocating for full inclusion for everyone, in spite of the monetary or social/emotional cost, are ignoring the fact that competitive employment for everyone is simply not realistic. Although well intentioned, I firmly believe mandatory total inclusion would prove too costly both financially and socially, causing many individuals to lose out.</p> <p><i>*Three other similar comments were received</i></p>	
16	We specifically recommend:	Training will be provided for Discovery and Customized Employment.

	<p>i. Immediate expansion of the Discovery and customized employment training</p> <p>ii. An amendment to service definitions to allow payment for Discovery and customized employment</p> <p>iii. Immediate statewide training and outreach regarding work and benefits and work incentives</p> <p>iv. Collaboration with the Department of Labor and Industry to ensure that budget requests submitted to the Governor's Office include adequate funding for these efforts (including fully funding the Office of Vocational Rehabilitation)</p>	<p>Certification in Discovery and Customized Employment may become a required competency for employment services providers.</p> <p>Many providers are currently billing for Discovery and Customized Employment under the Consolidated and PFDS waiver supported employment definition. Discovery and Customized Employment may become a service definition in these two waivers.</p> <p>The ODP is currently developing an employment training series for Supports Coordinators on employment to include benefits and work incentives.</p> <p>The ODP is working collaboratively with the Office of Vocational Rehabilitation to create some blended funding collaborations to ensure maximum efficiency of all of our resources.</p>
17	<p>I'm writing to comment on the changes for the workshops. On many levels they provide a way for the clients to socialize, work, integrate, and learn to get along with others. Learning what appropriate behaviors should be. What it feels like to work and get a pay check. Then be able to buy things in return. For some being at a work shop means learning the skills to get a job outside in the community. Individuals need structure in their lives. Something to look forward to, like their jobs at a work shop, and other programs. All of this helps them to feel more complete and part of their community.</p>	<p>At this point, no decisions have been made regarding changes to vocational facilities. As stated in the current transition plans, the ODP will develop guidelines with stakeholder input regarding settings that have the effect of isolating individuals. The ODP anticipates that these guidelines will cover expectations for employment services including vocational facilities</p>
18	<p>The Plan creates no goal to identify and implement minimum quality standards in the provision of services. Prevocational Services by definition are supposed to transition people to employment. Indeed, Pennsylvania Code defines "sheltered employment" as "[a] program designed to enable the client to move out of the vocational facility into competitive employment or into a higher level vocational program focusing on the development of competitive worker traits and using work as the primary training method." 55 Pa. Code §2390.5. This Plan must require providers demonstrate success in</p>	<p>The current transition plans state that guidelines will be developed and published regarding "settings that have the effect of isolating individuals..."The ODP anticipates this will include a discussion of prevocational services. The current transition plans also state that waiver service definitions will be reviewed to determine what changes will be necessary. The ODP will keep this recommendation in mind when implementing both of these Action Items.</p>

	<p>transitioning the individuals they serve to employment. Services in segregated settings must be time-limited. If the state is paying for prevocational services, providers must demonstrate success in conveying the skills and training that they purport to provide.</p>	
Comments Received on Section 4: Outreach and Engagement		
	Summary of Comment	Response
1	<p>Public hearings and comments are a beginning step but they are not sufficient. Individuals and families are concerned, even scared, about how the plan and the CMS requirements will affect them. Participation and input by people with disabilities and family members are important. The transition plans state that impacted stakeholders will be identified. The plans should describe how this will be done and who the key stakeholders are. It is recommended that specific steps and timelines be outlined in the transition plan including regularly scheduled public forums and local information sessions to provide updates as to status and progress on the plan and opportunities for public comment.</p> <p>Stakeholders should be from a variety of regions, with a wide range of disability being represented through individuals or family members, and this group should make up at least be 51% of committee. ODP should also consider involving stakeholders who speak English as a second language.</p> <p><i>*Six other similar comments were received</i></p>	<p>To determine which stakeholders will be impacted, policies and guidance must first be developed. The ODP is aware that each action item will impact individuals with disabilities and family members. As such, the ODP is currently working on a plan that will ensure participation and input by individuals with disabilities and family members. Other key stakeholders have not yet been identified as participation will depend on the policy or issue being discussed and developed. Further, the ODP has until March 2019 to be fully compliant with the new regulations. As shown in the transition plans, policies and regulations for each requirement will be completed at different times during the next four years. When stakeholders have been identified to work on a specific policy or regulation, this information will be made publicly available. Further, once policies and regulations have been finalized, training will be scheduled and provided.</p>
2	<p>A public information and input campaign for participants and family members is needed. The Outreach and Engagement section in each transition plan is a good start. Plain and person-first language should be used. Communications should be accessible. Providing information to the Medical Assistance Advisory Committee is not enough. Email lists, Supports Coordinator visits, local meetings, work groups, webinars, advisories, and letters are also needed. The Department should involve self-advocates. Peer</p>	<p>The Department agrees that more information should be made available for participants and family members. The Department is currently working on documents that will provide an overview of the CMS Home and Community-Based Services (HCBS) Final Rule that will be made publicly available. ODP is also working on webinars that will provide general information on the CMS HCBS Final Rule to Administrative Entities, Supports Coordination Organizations, and Supports Coordination Agencies. While these</p>

	<p>training should be funded, especially for those in segregated settings, to complement the Departments own obligations to educate.</p> <p><i>*One other similar comment was received</i></p>	<p>are examples of some initial projects the Department is engaged in, the Department is committed to ongoing engagement and education of all stakeholders impacted by any changes made.</p>
3	<p>The action description is “On-going engagement highlighting updates and revisions to Pennsylvania's regulations, policies, and procedures; training on compliance to the Home and Community-Based Services (HCBS) Final Rule and transitioning activities for service coordinators, providers, and staff.” The people most impacted by changes in the system are people with disabilities and families. They should have ready access to the same training about the rules, regulations and changing business practices as professionals.</p> <p>We recommend this be amended in all transition plans to add people with disabilities and families. This action step and description should be revised to read: “Stakeholder Training” with the description “On-going engagement highlighting updates and revisions to Pennsylvania's regulations, policies, and procedures; training on compliance to the HCBS Final Rule and transitioning activities for people with disabilities, families, service coordinators, providers, and staff.”</p> <p><i>*One other similar comment was received</i></p>	<p>The ODP agrees for the need to offer training to all stakeholders, including the individuals we serve and their families, and the transition plans have been revised accordingly. The ODP is currently developing a training that will provide an overview of the CMS Final Rule. This is the first training in an ongoing series as ODP begins to move through the transition plan.</p>
4	<p>Consideration must be given to those without computer access or ability to navigate information without support. Many times only contact is through the Supports Coordinator, a communication tool and documentation must be developed and monitored to assure information is given to all consumers and legal representatives.</p> <p><i>*One other similar comment was received</i></p>	<p>The ODP agrees that consideration must be given to those without computer access or ability to navigate information without support. The ODP will be developing a communication plan to address this issue.</p>
<p>Comments Received on Person-Centered Planning</p>		

	Summary of Comment	Response
1	<p>Person-centered planning and conflict of interest rules became effective March 17, 2014. Please move aggressively toward compliance with these provisions to ensure that participants can direct their service planning, choose services in integrated settings, and have all of their needs addressed. Person-driven services and supports are an important part of Person-Centered Planning. Policies should be reviewed and revised with input from people with disabilities through public notice and public comment. Education of participants and family members is important. Participants and family members should also get information on how to address problems, such as appeal and complaint rights. Supports Coordinators and other providers should also be trained.</p> <p><i>*One other similar comment was received</i></p>	<p>CMS limits the purpose of the transition plan to settings where waiver services are delivered. For this reason, the person-centered planning requirements are not contained in the transition plans. The ODP acknowledges that we must comply with the person-centered plan requirements and is currently reviewing all policies and procedures regarding Individual Support Plans. These recommendations will be taken under consideration as ODP moves forward with this process.</p>
2	<p>Plan should address new federal requirement on person-centered plans. Specific activities that should be included in the transition plan are:</p> <p>A. Develop and include a plan to comply with the section §441.725 Person-centered service plan.</p> <p>B. We urge the Department to take an inventory of the capacity of Supports Coordination Organizations (SCOs) to facilitate person centered planning and to take steps to expand that capacity, if necessary, based on that inventory. All SCOs should have the capacity to provide facilitation of formal person-centered plans (including PATH, Personal Futures Plan, Essential Lifestyle Plan, MAPS, etc).</p> <p>C. The plan should include provisions for Supports Coordinators to be provided extensive and mandatory training in the person-centered planning approach and how it should fundamentally change their approaches to plan development. Moving from service driven plans to plans driven by person-centered planning</p>	<p>CMS limits the purpose of the transition plan to settings where waiver services are delivered. For this reason, the person-centered planning requirements are not contained in the transition plans. The ODP acknowledges that we must comply with the person-centered plan requirements and is currently reviewing all policies and procedures regarding Individual Support Plans. These recommendations will be taken under consideration as ODP moves forward with this process.</p>

begins with the Supports Coordinator’s approach and skills to facilitate plans. The following steps should be taken to improve the capacity of Supports Coordination to effectively facilitate person-centered planning and assist people to live and work in non-disability specific settings:

- i. Provide comprehensive training in planning for individually identified outcomes that are not restricted by the services available.
- ii. Provide comprehensive training in non-traditional models (participant-direction, lifesharing, customized employment, etc). There is little to no training currently available to Supports Coordinators on these topics.
- iii. Provide training in housing resources and how to access them.
- iv. Incentivize planning. The Department should examine Supports Coordination rate structures or other mechanisms that could incentivize or provide for quality person-centered planning, with monitoring by ODP of these plans’ results.
- v. Provide a mechanism for Supports Coordinators and waiver participants to obtain quality technical assistance when they are working with people who want non-traditional models of service.

**Two other similar comments were received*

D. An example of where person-centered planning could be invaluable in complying with the new rules is in Section 3 of each of the transition plans related to individuals needing to find new providers or locations because settings were deemed unallowable and providers were unable to comply with the new rules. Where individuals are receiving services in unallowable settings, if providers are unable or unwilling to comply with the new rules,

	<p>then people in those programs will need to be transitioned to other sites or programs. We urge ODP to be more specific in its plan to assist those individuals beyond “work with supports coordination organizations.” For each person served in these non-compliant settings, ODP should ensure Supports Coordinators are not only notified but also begin or arrange for formal, comprehensive person-centered planning processes. Through these processes the following should be identified: each person’s needs that were being met by the non-compliant program, any other relevant needs each individual has and an alternative means of meeting each person’s needs in non-segregated settings. Each person-centered plan should result in an action plan for ensuring the individual’s needs are met once the person transitions out of the non-compliant setting.</p>	
Comments Received on General Comments		
	Summary of Comment	Response
1	<p>The development of the plan was well thought out and included recommendations previously received from stakeholders on the draft transition plan presented to stakeholders in September 2014. It is clearly demonstrated that the Pennsylvania ODP has been ahead of the curve in policy, regulations and philosophy regarding settings, choice, integration and involvement in the community for many years.</p> <p>*Two other similar comments were received</p>	<p>The ODP is appreciative of this compliment. ODP will continue to improve the transition plans as the action items are implemented.</p>
2	<p>States have five years from March 17, 2014 to be compliant with the new regulations. The Department should not seek to extend this deadline.</p>	<p>The transition plans reflect that the Department will make every effort possible to comply by March 17, 2019. Compliance with the new federal requirements however, involves major changes to our system. The Department is committed to making sure individuals with an intellectual disability or autism have the services they need to achieve greater independence, choice, and opportunity in their lives. As such, if the Department has made good faith efforts to comply by March 17, 2019 but more time is needed an extension may be sought if allowed by CMS.</p>

3	We recommend that ODP clearly acknowledge in the amendments that improving current and starting new Home and Community-Based Services settings will require changes to funding formulas and incentivizing new models, particularly to address changes in staffing ratios and transportation.	The current transition plans state that ODP will review service definitions to determine what changes will be necessary. ODP will also incentivize new models as a result of HCBS rule changes or as a result of ODP's Future's Planning Process.
4	We recommend that providers and supports coordinators have training on the implications and implementation of the Home and Community-Based Services regulations.	Development and distribution of training tools is currently included in the transition plans. ODP is currently working on webinars that will provide general information on the CMS Home and Community-Based Services (HCBS) Final Rule to Administrative Entities, Supports Coordination Organizations, and Supports Coordination Agencies.
5	We encourage ODP to expand the use of Services My Way and supports brokers in each waiver as mechanisms for providing greater access to integrated living and working opportunities.	The current transition plans state that waiver service definitions will be reviewed to determine what changes will be necessary. The Department will keep this recommendation in mind when implementing this Action Item.
6	Supports Coordinators need to work with participants, their family members, and the rest of the Individual Support Plan Team to 1) ensure a choice of qualified waiver providers and settings that comply with the new regulations, through person-centered planning, and 2) facilitate a safe, timely transition to the new provider. Supports Coordinators should ensure the participant is aware of appeal rights.	The Department believes that working with the Individual Support Plan Team (which includes individuals and family members), ensuring choice of qualified providers, and facilitating transition to a new provider is already addressed in the transition plans. If an action is taken that falls under 55 Pa. Code Chapter 275 relating to appeal and fair hearing requirements for waiver participants, the Supports Coordinators and Administrative Entities will follow ODP's policies and procedures regarding such requirements.
7	The transition plans do not adequately address building provider capacity. The Adult Autism Waiver transition plan merely states that the Department will "address" any access issues that are identified for Settings Presumed Not Eligible. The Consolidated and P/FDS transition plans only state that the Department will "provide ongoing engagement" with providers. The Department should specify proactive, concrete actions to build provider capacity so that there are enough residential and non-residential settings that comply with the new federal regulations and to	During implementation of the transition plans, the ODP will be reviewing whether new waiver service definitions are needed or current waiver service definitions should be revised to comply with the new federal regulations. Once this step has been completed, the ODP will work to develop provider capacity to render the services.

	<p>ensure that individuals have real and meaningful choice of providers.</p> <p><i>*Three other similar comment was received</i></p>	
8	<p>Providers should be incentivized to develop services in integrated settings and hire enough qualified, trained staff.</p>	<p>ODP's Future Planning Process will address these issues.</p>
9	<p>Build a system where there are adequate criteria for determining well qualified service providers. Rely more on ensuring that the system has qualified providers with the necessary training, certification, understanding and values. Rely less on monitoring after the provider is in the system. Many monitoring tools such as Individual Support Plan, Individual Monitoring for Quality, provider monitoring, licensing already exist and can be revised to be more effective. Use new data system to provide a systemic way to measure progress.</p> <p><i>*One other similar comment was received</i></p>	<p>ODP's Futures Planning Process has a team whose objective is to "Review and revise qualifications so that people will be supported by professionals who are appropriately qualified and trained to their individual needs, including a focus on people with complex physical or behavioral health needs." This group will be providing recommendations for enhancing the minimum qualifications for provider staff in the waivers as well as developing a standardized training module for new provider staff.</p> <p>The current transition plans state that on-site monitoring tools will be revised as necessary. As policies and guidance are developed, the ODP will explore whether current monitoring tools should be modified and utilized or whether new monitoring tools will need to be developed.</p>
10	<p>On the issue of community integrated residential and support services, the waivers need to address specialized services for persons who are dually diagnosed with intellectual disability or Autism and mental health issues.</p>	<p>The current transition plans state that waiver service definitions will be reviewed to determine which changes will be necessary. The Department will keep this recommendation in mind while working with other program offices such as the Office of Mental Health and Substance Abuse Services.</p>
11	<p>The use of mobile crisis teams to assist those living at home or in community settings should be expanded.</p>	<p>The current transition plans state that waiver service definitions will be reviewed to determine which changes will be necessary. The Department will keep this recommendation in mind while working with other program offices such as the Office of Mental Health and Substance Abuse Services.</p>
12	<p>There is also a growing need for youth transitioning out of residential treatment facilities and individuals moving from state centers to have the appropriate transition services to provide their mental health treatment, daily living skills, educational and</p>	<p>The current transition plans state that waiver service definitions will be reviewed to determine which changes will be necessary. The Department will keep this recommendation in mind while working with other program offices such as the Office of Mental Health and</p>

	<p>vocational skill development and assistance in moving to the next more independent living options as they reach mental health recovery. The waivers need to include a new service definition for these types of community integrated transitional services. These transitional residential support programs must be person-centered with an emphasis on the individual moving towards the most independent life possible. This transitional type service will also assist the state in its implementation of the federal “Olmstead” Supreme Court decision.</p>	<p>Substance Abuse Services.</p>
13	<p>It is recognized there is a national movement away from sheltered workshop options. However, this is a major system change for many disabled individuals who will most likely never be eligible for competitive employment or who need significant training and assistance to get to the level of any competitive employment. As such, the workshops play a critical part in the continuum of employment services that are offered to individuals.</p> <p><i>*One other similar comment was received</i></p>	<p>At this point in time, no decisions have been made that would limit service choice from what is currently available through the waivers. Individuals will always have choice of settings that meet regulatory requirements, waiver service definitions and policies.</p>
14	<p>In addition, consideration must be given to other daily options such as enhanced day programs which include addressing socialization skills, behavior modification, and therapies such as cognitive rehabilitation therapy to assist in moving the individual toward more independence.</p>	<p>The current transition plans state that waiver service definitions will be reviewed to determine what changes will be necessary. The Department will keep this recommendation in mind while working with other program offices such as the Office of Mental Health and Substance Abuse Services.</p>
15	<p>Amendments to waiver must include greater flexibility for both consumers and providers to actually be able to address individual’s needs. This transition plan needs to be an avenue and resource for providers to expand to meet needs of individuals both physical sites and licensing capacities. Suggest regional transition team including provider’s needs to be established as providers and services are unique.</p>	<p>The ODP needs more details regarding what this commenter would like to see when “greater flexibility” is referenced.</p>
16	<p>ODP needs to come out specifically and state in that plan what services are going to look like, what’s going to be allowable, and</p>	<p>Policies and guidance must be developed before the Department can provide these details in the transition plan. As the Department</p>

	what's going to be funded at the end of the five year plan. It's just general comments.	begins to implement the actions items the transition plans will be updated to include more details and target dates will be revised as necessary.
17	Make sure non-work community based activities are just as individually developed as employment. Do not default to Home and Community Habilitation as the primary service available as there is far too little habilitation actually occurring. The system is currently suffering with a large number of providers who do not possess the necessary knowledge and expertise to provide home and community habilitation services though they are "qualified" by the Department. All too often these services are not adequate and do not meet the individual's needs.	The current transition plans state that a communication will be developed regarding meaningful day opportunities in non-disability specific settings. The transition plans also state that ODP will review and revise service definitions as needed.
18	The plan fails to define core terms like isolation and opportunities for community participation.	As stated in the transition plans, ODP will develop policy and guidelines with stakeholder input. ODP anticipates that these policies and guidelines will include definitions for terms included in the transitions plans.
19	There is concern that the proposed changes in the transition plans will affect the waiver services that individuals receive. <i>*Four other similar comments were received</i>	No decisions have been made at this time regarding how waiver services will change. The ODP will exercise care in implementing the new federal requirements over the next several years. Ultimately, the ODP is committed to making sure individuals with an intellectual disability have the services they need to achieve greater independence, choice and opportunity in their lives.
20	There is a concern that the CMS regulations will cause individuals to wait longer for Waiver funding.	For the past three years, the ODP has received funding in the final budget enacted by Pennsylvania's General Assembly to serve individuals who were waiting for services. The ODP and other individuals and organizations advocate for additional funding to serve individuals who are waiting for services each year. The ODP encourages all individuals to contact their state representatives to advocate for more funding to serve individuals through ODP's waivers.
Comments Received on Section 3: Remediation Strategies Requirements for Provider-Owned or Controlled Home and Community Based Residential Settings (Consolidated and Adult Autism Waivers Only)		

	Summary of Comment	Response
1	<p>In all transition plans, the steps under these sections are general and vague. The Department does not include steps to show how it will assess whether each setting is following each provision of the new regulations and, where there is non-compliance, the remedial steps the Department will take. The Department references development of or revision of Home and Community-Based Settings guidelines, monitoring tools, an Individual Support Plan checklist, and a “communication regarding ISP documentation.” These materials are not sufficiently described to show how they will align with the new federal regulations.</p> <p>The Department also does not explain how these or other materials will be used to assess and remedy non-compliance. The Department needs to provide the action steps for enforcing the new regulations, notifying and involving participants and family members, and transitioning individuals to compliant settings if the provider will not comply with the new regulations.</p>	<p>The current transition plans state that on-site monitoring tools will be revised to reflect the new requirements. ODP anticipates that provider compliance will be monitored through the use of these revised tools. The current transition plans reflect general action items and target dates. As ODP begins to implement the action items the transition plans will be updated to include more details and target dates will be revised as necessary.</p>
2	<p>How is the provider to pay for adding mandated entrance doors lockable by the individual when providers of residential services have not been allowed to retain any earned revenue?</p>	<p>Providers will pay for door locks with residential ineligible fees. The recently signed Provider Settlement Agreement allows for a retention factor to be built in to residential eligible rates beginning in FY 2015-16, subject to CMS approval.</p>
3	<p>Federal requirement on access to food at any time: Several Pennsylvania residential providers have already indicated this option has led to individuals over-eating, gaining 50-70 pounds in one year which is leading to health issues such as diabetes. While individuals with intellectual disabilities should have all the same rights of all citizens it must be remembered that the reason they are receiving waiver funding is due to their intellectual limitations and often do not understand the consequences of their actions. Providers (and the individual’s family who are concerned about such situations) should have some mechanism to assist in preventing these situations from occurring.</p> <p><i>*One other similar comment was received</i></p>	<p>CMS regulations allow for modifications regarding an individual’s right to have access to food at any time. If a modification is needed, the following must be documented in the Individual Support Plan:</p> <ul style="list-style-type: none"> • A specific and individualized assessed need. • The positive interventions and supports used prior to any modifications to the person- centered service plan. • Less intrusive methods of meeting the need that has been tried but did not work. • A clear description of the condition that is directly proportionate to the specific assessed need. • A regular collection and review of data to measure the ongoing effectiveness of the modification. • Established time limits for periodic reviews to determine if the

		<p>modification is still necessary or can be terminated.</p> <ul style="list-style-type: none"> • Periodic reviews to determine if the modification is still necessary or can be terminated. • Informed consent of the individual. • An assurance that interventions and supports will cause no harm to the individual. <p>The transition plans currently state that a communication will be developed and published regarding required Individual Support Plan documentation when such a modification is needed.</p>
4	<p>Concern that individuals safety is at risk if he or she can lock/unlock unit doors, have unrestricted visitors, have access to food at any time, or can leave the home without necessary supports.</p> <p><i>*Four other similar comments were received</i></p>	<p>CMS allows modifications to the residential setting requirements referenced in the comment. Modifications must be supported by an assessed need and justified in the person-centered plan. The transition plan currently states that the Department will develop and publish a communication regarding required Individual Support Plan documentation when such a modification is needed.</p>
5	<p>The broadest terms of accessibility should be used. All of these areas need to be assessed for the specific residents and may require the department to establish different licenses for homes where residents are wheelchair users. If a home has both individuals who are ambulatory and some wheelchair users the higher standard for the home should be used.</p>	<p>Regardless of licensing requirements, all residential settings must be physically accessible to the individuals residing there.</p>
6	<p>The Department needs to provide the “lease agreement” to residential providers so there is consistency across the state.</p>	<p>The current transition plans state that the room and board contract will be revised to reflect the new requirements and distributed.</p>
7	<p>Any landlord tenant lease must allow for residents and/or provider an avenue to terminate for health and safety issues. To require an individual to remain in an unsafe or unhealthy environment will impact the resident and any roommates possibly jeopardizing providers as well. We do not want to be neglectful or worse abusive by keeping a consumer because they have a lease agreement that we or they are unable to mutually agree to terminate.</p> <p><i>*Two other similar comments were received</i></p>	<p>As stated in the current transition plan, the Department needs to analyze Pennsylvania’s landlord tenant law and determine what constitutes comparability for residential settings. The Department will continue to have discussions with stakeholders regarding this requirement to inform future decision making.</p>
8	<p>To my knowledge, there are currently no leases or agreements</p>	<p>The Department currently has no requirement that providers have a</p>

	<p>between individuals (or their representatives) and providers assuring any of the tenant rights which, in Pennsylvania are quite extensive, required by the regulations. In fact, the 30 day discharge policy would be in direct conflict with such leases or agreements. A tremendous amount of training and support will need to be offered (and monitored) by the Department. While CMS requires adequate funding for room and board to be available for particular living arrangements, this appears to be a moot point in Pennsylvania since the current standard practice is 72% of an individual's maximum Supplemental Security Income (SSI) payment.</p>	<p>lease or agreement that provides protections from eviction. The current transition plans state that the room and board contract will be revised to reflect the new requirements and distributed. The ODP is currently working with stakeholders to revise 55 Pa. Code Chapter 51 regulations which contain the 30 day discharge policy. This recommendation will be discussed in the regulation revision workgroups.</p>
9	<p>We ask ODP to include in Individualized Service Plans both the alternative settings considered by the participant and the final setting selected by the person for the provision of Home and Community Based Services.</p>	<p>The current transition plans include a step for ODP to identify where choice of setting will be included in the Individual Support Plan.</p>
10	<p>ODP has responded by indicating that, for the Consolidated Waiver, a communication about the rights of the individual will be developed and published and for the Autism Waiver, the "communication will include the additional information that must be included in the Individual Support Plan when a modification to a requirement is needed to ensure the participant's health and safety." We believe that the intent of the federal rules extends beyond simply reiterating that a person has the right to do something. Most of these rights are already constitutionally guaranteed. It is not sufficient that ODP promulgate policy stating that a person has a right to choice of roommate, freedom and control of schedule and activities and is able to have visitors. It is also not sufficient that the only manner in which these federal rules are addressed in the autism waiver is by documenting when those rights are denied a person in order to "ensure a participant's health and safety." Rather, in the context of the full body of the federal rules, the intent is that the individual should have the support and accommodations to be able to exercise those rights. Additionally, the policy issued for compliance with these federal regulations should indicate that the Individual Support Plan team</p>	<p>The ODP is currently working with stakeholders to revise regulations that will include a section on individual rights.</p> <p>The ODP will take this recommendation into consideration when developing policy updates that are needed for compliance.</p> <p>The Bureau of Autism Services agrees with the comment that addressed the Adult Autism Waiver and has revised the transition plan accordingly.</p>

	must discuss and plan for how to support an individual to exercise these rights.	
	Comments specific to the Adult Autism Waiver (AAW) Transition Plan	
	Summary of Comment	Response
1	Intermediate Care Facilities for Persons with Other Related Conditions (ICFs/ORC) should be included under ICFs/ID (Intermediate Care Facilities for Persons with an Intellectual Disability) in Identification #2 and Remediation Strategies, Unallowable Settings #2	The transition plan references citations from the federal requirement.
2	Presumed non-compliant Adult Autism Waiver providers need a deadline for submitting information to the Department.	The deadline for submitting information to the Bureau of Autism Services will be included in the notification providers will receive.
3	The Bureau of Autism Services should assist providers with action steps to be taken to ensure compliance and resolve any access issues, as in the Consolidated and P/FDS transition plans (Unallowable Settings #11).	The Bureau of Autism Services agrees with this recommendation and has revised the transition plan accordingly.
4	Adult Autism Waiver providers should be expected to comply with 55 Pa. Code Chapter 51.	Adult Autism Waiver providers are currently required to comply with 55 Pa. Code Chapter 51.
5	<p>In particular, we are concerned about our most vulnerable young adults with severe autism who are non-verbal, minimally verbal, those with significant caregiver needs or some individuals with intellectual disabilities who cannot make their own choices.</p> <p>There are two points we would like to be considered, 1) the safety concerns of these individuals in integrated apartments and settings, and 2) individuals who would prefer to be in disability friendly environments to lower their anxiety about social situations or for other considerations.</p> <p>We are therefore requesting that there be allowed on a case-by-case basis, exceptions to the CMS rules based on 1) individual/family concerns for their young adults' safety in the community and 2) based on the person-centered-planning choices of the individual and their family.</p>	CMS allows modifications to the residential setting requirements referenced in the comment. Modifications must be supported by an assessed need and justified in the person-centered plan. The transition plan currently states that the Department will develop and publish a communication regarding required ISP documentation when such a modification is needed.

	<p>We believe in giving individuals appropriate options, allowing them to select from all the choices and not to limit their options based on the inclusion model if it is not appropriate or not selected.</p>	
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** Four other similar comments were received*