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Comments on HCBS Residential Settings Compliance Transition Plan

1. The Advisory Taskforce should include representatives of all types of CFI providers. Residential Care Providers should be represented by individuals nominated by the NH Association of Residential Care Homes and NH Healthcare Association.
2. The so-called “Settings Rule” evolved over a nearly 6 year period from 2008 to 2014, with proposed drafts published in April 2011 and May 2012 and a final rule in January 2014. Over this time the language of the actual rule became less prescriptive, less specific and seemed to allow states more latitude in compliance. In this light the CMS document “Guidance on Settings that have the Effect of Isolating Individuals Receiving HCBS from the Broader Community” is particularly upsetting. It seems to be an attempt to reverse the progress made in the evolution of the rule through a particularly rigid interpretation that is not supported by the actual language of the rule. For example, one of the characteristics of a setting that is “isolating” is described thus:

“The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them.”

This description would apply to every residential care home in the state. Is it CMS’ intention to de-fund every res care in New Hampshire?