

PUBLIC COMMENT SUMMARY AND RESPONSE

New Hampshire Statewide Transition Plan

New Hampshire revised its Statewide Transition plan and put it out for public comment in September of 2018. Through the public comment feedback it was identified that there were issues with the hyperlinks in the report making it challenging for stakeholders to review the plan and give feedback. In response, New Hampshire updated the document and reposted it for additional public comment. Below is a summary of the comments and the state's responses.

Public Comments

Comment 1: Commenters had concerns regarding the public comment process. Stakeholders identified that the links within the revised statewide transition plan document did not work. Additional feedback indicated that the set up of the web page was confusing.

Response 1: The state moved the HCBS settings rule information to a different location on the DHHS website. A new page was developed to address the issues raised by the stakeholders including creating a more streamlined page making it easier to follow.

At the same time the state updated the links within the statewide transition plan document and tested them to ensure that they were functioning links. Once these steps had been taken the updated statewide transition plan was put out for a second public comment period.

Comment 2: Commenters identified concerns about the transition plan and that the deadlines for the goals had not been updated.

Response 2: As noted in the executive summary, found on page 4 of the revised STP, the changes made to the transition plan were based on the questions/clarifications identified by CMS. The timeframes were not updated during the latest revision of the plan.

Comment 3: Two commenters were concerned about the reimbursement rate for services providers under the Choices for Independence waiver.

Response 3: NH recognized the need to look at the reimbursement rate and included that as a goal within the statewide transition plan.

Comment 4: Commenters voiced concern about the need for additional resources for the certification / licensing bureau to complete the ongoing monitoring of the plan implementation. The concern is that licensing doesn't currently monitor HCBS expectations as part of their normal duties.

Response 4: New Hampshire has/will implement a monitoring process using the certification / licensing bureau to meet the needs outlined in the statewide transition plan. In collaboration with the certification and licensing bureau a process has been developed, piloted, revised and implemented for monitoring of settings under the DD/ABD waivers.

Comment 5: Commenters identified concerns about the eviction process for participants in assisted living facilities. The concerns identified were regarding the difference between the state's discharge process and the eviction process stating that one is a judicial process and the other is a non-judicial process.

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Response 5: The CMS expectation is that the State must ensure that if the state’s landlord tenant laws do not apply to a setting, a lease, residency agreement or other form of written agreement must be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those under the state’s landlord tenant law. In the state’s assessment the current protections provided for individuals in settings outside the scope of the landlord tenant law are comparable to the landlord tenant law. In the Statewide Transition Plan, CFI Topic Area Goal #16 indicates that the state will update settings agreements for all residential sites, to be sure all HCBS expectations are met.

Comment 6: Commenters identified that the transition plan describes participant and provider surveys but does not include any response data. The concern was that stakeholders were unable to assess whether the review process was sufficient.

Response 6: As identified in the Executive Summary in the statewide transition plan, the charts and graphs outlining the baseline data obtained from the surveys was deleted from the revised version because there were no changes to the information. This baseline information is what was used to develop the initial statewide transition plan focus areas/goals. Any changes to the focus areas/goals are outlined in the Executive Summary and include links to the changes that were made.

Comment 7: One commenter was concerned that the development of a standardized template for residency agreements did not seem to require its use for those on the DD and ABD waivers (referenced page 49 of the STP).

Additionally, the commenter was concerned that the timeframe on the goal indicated the template had already been developed and shared with the Advisory Task Force and as a member, the did not remember seeing the template.

Response 7:

Step #6 within DD/ABD Goal #15 on page 49 of the STP, states:

- 6. Implementation date determined
 - a. All person centered plans to include settings agreement

As noted in comment #2, the timeframes within the STP were not updated. The form is still being developed and has not been presented to the Advisory Task Force for review.

Comment 8: One commenter was concerned about the state’s ability to ensure that all settings were compliant by the March 2022 deadline.

Response 8: The state believes that through the training, monitoring and self-evaluation process, the HCBS settings will be in compliance for the March 2022 deadline.

Comment 9: One commenter was concerned about the “mandatory self-assessment tool” not being distributed to all providers until January 2021.

Response 9: As a result of feedback given, Short Term Goal #1 for both DD/ABD and CFI has been updated to reflect the new deadline for compliance. The Executive Summary, located on page 4 of the

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revised STP, included a link to pages 71 and 77 where the updated goals could be found. Based on the revisions, the new mandatory provider self-assessment will be sent out to providers in July 2020.

Comment 10: A concern was raised that the revised transition plan does not include an appeals process for HCBS participants who may be subjected to relocation. Additionally, there was concern about the development of additional compliant settings.

Response 10: If a participant chooses to continue receiving services in a non-compliant setting, there will be no appeals process. If a setting remains non-compliant at the deadline and the participant chooses to remain in the setting, the state will be unable to pay for the waived services resulting in the cost being shifted to the participant.

NH has made a concentrated effort to develop additional settings, including working with vendors to work in additional areas of the state and recruiting new providers who have not worked in NH before.

Comment 11: One commenter identified that there is a need for timely completion of the heightened scrutiny process, specifically that the Department has not assessed New Hampshire's HCBS settings to determine whether they should be presumed institutional based on isolation.

Response 11: NH developed a potential heightened scrutiny list based on input from stakeholders, including the waiver transition process' Advisory Task Force members, and the state's Bureau of Certification and Licensing. As part of its approach NH determined that all settings on the DD or ABD waiver providing services to more than four people would undergo the heightened scrutiny process. This was done to ensure that HCBS recipients in these settings weren't isolated due to the number of individuals being served. The approach that NH was using for heightened scrutiny was vetted by CMS before implementation.

Based on updated guidance from CMS (March 2019), the state will be updating its heightened scrutiny process to accurately reflect this new guidance which will include the opportunity for settings to complete remediation related to isolation by June 2020 and eliminate the need for heightened scrutiny by CMS.

Comment 12: The Transition Plan lacks detailed information on methodology and timelines for heightened scrutiny reviews and participants' transition to compliant settings.

Response 12: The transition plan does include the heightened scrutiny process on pages 85 and 86. Additionally, the revised transition plan includes a separate heightened scrutiny process for CFI settings that was reviewed and approved by the Advisory Task Force. The heightened scrutiny process can be completed as a need arises.

Comment 13: One commenter identified that more resources should be provided to support the Office of Program Support, Bureau of Licensing and Certification to support them in their role of monitoring and oversight activities. The same commenter identified the need for additional training for the staff regarding interviewing/surveying individuals with disabilities.

Response 13: The waiver transition team has met on several occasions with the Bureau of Certification and Licensing to develop and revise the monitoring tool, provide training, pilot the draft tool, finalize the tool and implement the monitoring process as outlined in General Implementation Strategy #3 of

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the statewide transition plan. The monitoring process completed by the Bureau of Certification and Licensing does not include interviewing/surveying of individuals.