

# Home and Community Based Services – Waiver Settings Transition Project

## Advisory Taskforce Meeting March 8, 2017 – 10am to 12 noon Minutes

Attendance: Ann Potoczak (for Richard Royse), Melissa Mandrell, Kaarla Weston, Lorene Reagan, Karen Rosenberg, Cheryl Steinberg, Cynthia Gaudreault, Linda Bimbo, Sandy Hunt (for Kaarla Weston), Tom Bunnell (for Richard Royse), Ryan Donnelly, Darlene Cray, Lisa DiMartino, Matt Lagos, Mary St Jacques

### 1. Introductions

- New members have joined the group since the group met last (September 2016) so introductions were made. New members include:
  - Matt Lagos, representing NH Association of Counties
  - Jon Eriquezzo, representing the Private Provider Network

### 2. Updates on STP:

- CMS has given feedback regarding the systemic assessment (the regulatory review) and the Waiver Transition Team is developing a response. Once the response has been submitted, reviewed, and approved, initial approval of the STP should be given by CMS.
  - DD/ABD waivers
    - The Waiver Transition Team in consultation with the legal team at DHHS has decided to approach the state's response focusing on He-M 310, Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services in the Community. This is the umbrella under which all services are provided, so regardless of the setting, the rights identified in the regulation (including the HCBS expectations) outline expectations for all those receiving DD/ABD services. Revisions will be proposed to JLCAR that address the issues pointed out by CMS.
  - CFI waiver
    - The Waiver Transition Team in consultation with the legal team at DHHS has decided to take a similar approach for the CFI waiver. The HCBS expectations will be incorporated into regulation He-E 801, Choices for Independence Program. This is the "umbrella" under which all CFI waiver services are provided, so regardless of the setting, the rights identified in the regulation (including HCBS expectations) outline expectations for all those receiving CFI services.

It was requested to post the feedback on the website. The information will be posted and the ATF will be notified when that occurs.

### 3. Heightened Scrutiny Process:

- The group reviewed the updated Heightened Scrutiny Process. If a setting has been identified under the three prongs of Heightened Scrutiny criteria, the provider will be expected to develop a remediation plan that will bring them into full compliance. Providers must send regular updates to the Waiver Transition Team with evidence that the steps has been completed. All plans must be completed by September

## Home and Community Based Services – Waiver Settings Transition Project

2018 to ensure that there is time for safe and effective transition to an alternative service setting if necessary.

- NHs approach is one of collaboration between DHHS and the providers of services.
- Clarification was requested regarding the number of settings that the state feels may not be able to be brought into full compliance.
  - The intent of the state is to bring all settings identified for remediation forward for Heightened Scrutiny once full compliance has been obtained, using the revised Heightened Scrutiny Process.

### 4. Facilitated Discussion regarding Heightened Scrutiny and isolation (prong III).

CMS has identified prong III as “settings with the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS”.

#### **What can we do to help settings work through issues of isolation?**

- Concerns raised by the group included
  - not enough staff to meet individualized needs
  - regulations have reinvigorated “mall/van therapy” because during community participation services, individuals need to be out in the community for the entire time they’re in services
  - suggestion was made to lift caps on individualized budgets so there’s more flexibility
- Question: if the family members bring a participant into the community does that count as community access?
  - What happens to those participants who don’t have family?
  - If CMS is expecting/paying the provider to offer the opportunities for participants, then shouldn’t it be the provider not the family who supports the participant access the community?
- It is not necessarily a location that makes someone isolated. It is a matter of choice; what does the participant want? The participant can choose to live wherever they like, but if it doesn’t meet the criteria that CMS has set forth, they won’t pay for it.
- Biggest challenge in CFI is transportation. Staff have to use their personal cars.
  - Under the DD/ABD waiver staff use their personal cars regularly. It has become part of the requirements for employment.
- In CFI people don’t participate in the activities that are offered.
- People have different interests, can’t accommodate all these interests at the same time.
- The County Homes that have assisted living facilities on the property are isolated by location. In addition, a 90 year old person can be isolated in her home. There is less isolation being at an Assisted Living Facility. Social interaction slows intellectual decline.

## Home and Community Based Services – Waiver Settings Transition Project

- The idea from CMS is to have interactions with non-disabled people
- Need to ensure that the person-centered planning process discusses what the participant is interested in doing.
- CFI is a medical model; maybe need to rethink that.
- Assisted Living Facilities market themselves as being “all-inclusive” so you have everything you need right on site and people from the community come to the setting.
  - CMS calls that reverse inclusion and does not meet the criteria that CMS has identified.
- There is a difference between solitude and isolation. Some people like to be by themselves.
- If there is a Care Plan tool that case managers use it needs to be in the toolkit. Additional training would be great also for case managers and providers.
  - One of the goals in the statewide transition plan is to develop standardized service agreement (DD/ABD) and Care Plan template. The service agreement template has been developed and implemented.
  - Training on the tool was completed for the service agreement template and will be developed for the Care Plan as well.
- Suggestion was made to enhance He-E 801 around the planning process.
- Person-centered planning and the person’s needs and desires form the foundation of the determination of isolation. CMS really wants to tap into the participants experience to identify the quality of the services that are being provided.
  - How do you measure that?
    - Suggestion was to use both a participant and proxy perspective questionnaire as well as case managers to get input before a review is done. This type of process is used by DCYF and might be a good option.
    - There is an isolation monitoring process within the STP that outlines different ways to monitor isolation on an ongoing basis and not just a snapshot in time.

**Next meeting June 14, 2017 at the IOD.**

# Home and Community Based Services – Waiver Settings Transition Project

## Advisory Taskforce Meeting June 14, 2017 – 10am to 12 noon Minutes

Attendance: Richard Royse, Melissa Mandrell, Cheryl Steinberg, Cynthia Gaudreault, Linda Bimbo, Ryan Donnelly, Darlene Cray, Jonathan Routhier, Amy Nichols for Matt Lagos, Jon Eriquezzo, Mary St Jacques

Guests: Kristen Stanton, incoming Executive Director at the Lukas Community; Jennifer Decker, UNH MSW intern.

- Introductions
- Updates on STP:
  - The deadline for full compliance has been moved to March of 2022. This gives states additional time to work with CMS to implement the necessary steps.
  - New Hampshire submitted its response last Friday regarding the Systemic feedback that CMS had given.
  - It was requested that the state's response be posted on the website and an email be sent to ATF members when that has occurred.
- Heightened Scrutiny Process:
  - There have been two trainings completed on the Heightened Scrutiny Process and expectations. There is one more scheduled. Each of the area agencies are scheduling the training in their region.
  - The committee was given the updated HS Process; the only update was the change in date of the completion of a provider's remediation plan. It has been changed to March of 2021. This will allow a year for transition if the setting cannot come into compliance and a participant needs to move.
  - The group reviewed the orientation process that will be used for area agencies and/or providers who will be going through the heightened scrutiny process.
  - The need for additional funding to implement the expectations was brought up.
  - A concern was voiced that Community Participation Services could be in jeopardy due to new insurance requirements for use of cars for work.
  - **Q:** who is responsible for submitting the quarterly updates for areas needing remediation?
    - A:** That is something to be decided by the area agency and provider agency.

## Home and Community Based Services – Waiver Settings Transition Project

- The committee reviewed the list of DD/ABD Heightened Scrutiny settings.

The CFI heightened scrutiny process will begin after the DD/ABD process has been implemented so any revisions to the process can be worked out.

**Q:** Based on the criteria identified, are all settings where there are staff and participants together required to go through the Heightened Scrutiny process?

**A:** No.

**Q:** When will providers be given information on the areas where they are out of compliance?

**A:** The provider will complete a self-assessment using the Provider Review Template. Providers will need to include evidence to show that they are in compliance with the expectations.

- The committee requested a copy of the Provider Review Form. A copy of the form will be sent to the committee. It was noted that the form only applies to those settings going through the heightened scrutiny process.
- The state hopes that CMS will allow the implementation of the Isolation Monitoring Process that is outlined in the STP. Isolation is the reason that many of the settings are on the list. The Isolation Monitoring Process is education based and would allow settings to implement change during the transition timeframe.
- **Q:** Can CFI providers get the heightened scrutiny training?  
**A:** Because this training applies only to heightened scrutiny settings, it would probably be better to offer general training on the HCBS expectations.  
**Follow-up:** NH ARCH is having a conference in October (17-18th). An offer was made to present during this event. NH HealthCare Association is having a conference in October as well.

The heightened scrutiny process is based on the **presumption** of institutional qualities. Once the self-assessment and on-site review is complete, there is the potential that a setting presumed institutional will come off the list.

- This process was described as “rebuttable presumption.” According to Wikipedia “A rebuttable presumption is assumed true until a person proves otherwise (for example the presumption of innocence).”

**Next meeting September 13, 2017 from 10-12 at the IOD.**