

Texas Statewide Settings Transition Plan

Rule Overview

The Centers for Medicare & Medicaid Services (CMS) issued a final rule under which states may provide for home and community-based long term services and supports, effective March 17, 2014. Under 42 CFR §441.301, states must meet new requirements for home and community-based long term services and supports. The new rule defines requirements for the person-centered planning process; person-centered service plan; review of the person-centered service plan; qualities for home and community-based settings; assurances of compliance with the requirements; and transition plans to achieve compliance with the requirements. The rule also identifies settings that are not home and community-based.

Each state that operates a waiver under 1915(c) or a State Plan Amendment (SPA) under 1915(i) of the Social Security Act that was in effect on or before March 17, 2014, is required to file a Statewide Transition Plan, hereinafter referred to as the Texas Statewide Settings Transition Plan. The Texas Statewide Settings Transition Plan must be filed within 120 days of the first waiver renewal or amendment that is submitted to CMS after the effective date of the rule (March 17, 2014), but not later than March 17, 2015. The Texas Statewide Settings Transition Plan must either provide assurances of compliance with 42 CFR §441.301 or set forth the actions that the State will take to bring each 1915(c) Home and Community-Based Service (HCBS) waiver and 1915(i) State Plan Amendment into compliance, and detail how the State will continue to operate all 1915(c) HCBS waivers and 1915(i) SPAs in accordance with the new requirements.

Texas Statewide Settings Transition Plan activity to date

On August 22, 2014, the State submitted an amendment to the Community Based Alternatives (CBA) waiver which started the 120 day clock for submission of the Statewide Setting Transition Plan.

On November 7, 2014, the State provided public notice of the Texas Statewide Settings Transition Plan. In previous communications, CMS indicated that it would provide additional guidance regarding the application of the new rule to the Texas Healthcare Transformation Quality Improvement Program (THTQIP) 1115 Demonstration waiver, hereinafter referenced as the 1115 Demonstration waiver and that the State could wait to receive such guidance before incorporating a settings transition plan for the 1115 Demonstration waiver into the Texas Statewide Settings Transition Plan. Thus, the Texas Statewide Settings Transition Plan as published in November 2014 did not address the 1115 Demonstration waiver. However, on December 8, 2014, just prior to the State's submission of the Texas Statewide Settings Transition Plan to CMS, CMS provided the aforementioned additional guidance regarding the application of the new rule to the 1115 Demonstration waiver. CMS indicated that the State may submit the settings transition plan for the 1115 Demonstration waiver in the form of an amendment to the Texas Statewide Settings Transition Plan no later than March 17, 2015.

On December 19, 2014, the State submitted the Texas Statewide Settings Transition Plan to CMS.

In accordance with CMS guidance, the State intends to submit an amended Texas Statewide Settings Transition Plan detailing compliance, remediation strategies, and timelines for the STAR+PLUS waiver program operating under the State's 1115 Demonstration waiver by March 17, 2015.

Texas Waivers and 1915(i) State Plan Amendment Overview

The State administers the following programs:

- Community Living Assistance and Support Services (CLASS) provides home and community-based services and supports to an eligible individual as an alternative to an intermediate care facility for individuals with intellectual disabilities. CLASS program services are intended to, as a whole, enhance the individual's integration into the community, maintain or improve the individual's independent functioning, and prevent the individual's admission into an institution. The waiver serves individuals with related conditions living in their own home or their family's home. The waiver allows individuals to receive services in a licensed foster home; however, only two individuals are currently receiving services in that type of setting.
- Deaf Blind with Multiple Disabilities (DBMD) provides home and community-based services to individuals with deaf-blindness or a condition that will result in deaf-blindness as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients may live in their own home, their family's home or in a small (4-6 bed) assisted living facility.
- Home and Community-based Services (HCS) provides home and community-based services to individuals with an intellectual disability as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients can live in their own home, their family's home, in foster/ companion care settings, or in residences with no more than three others who receive similar services. HCS rules require providers to justify any restriction of rights and support the principles set forth in the new HCBS regulations.
- Medically Dependent Children Program (MDCP) provides services to support families caring for children who are medically dependent as an alternative to institutional care in Medicaid-certified nursing facilities. Services are provided in the individual's home or their family's home.
- Texas Home Living (TxHmL) provides essential services and supports for people with intellectual disabilities as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients must live in their own home or their family's home.

- Youth Empowerment Services (YES) waiver provides home and community-based services to children and youth ages 3-18 with serious emotional disturbance who reside in a non-institutional setting with the individual's legally authorized representative (LAR) or in the youth's own home, if legally emancipated.
- Texas Healthcare Transformation Quality Improvement Program (THTQIP) 1115 Demonstration waiver provides home and community-based services under the HCBS STAR+PLUS waiver program as an alternative to institutional care in Medicaid-certified nursing facilities. Individuals who meet this level of care have access to the following waiver services: adaptive aides and medical supplies, adult foster care, assisted living, dental, emergency response services, employment assistance, supported employment, cognitive rehabilitation therapy, home delivered meals, minor home modifications, nursing services, occupational therapy, personal assistance services, physical therapy, respite care, speech therapy, and transition assistance. Assisted Living (AL) services provide a 24-hour living arrangement for persons who, because of physical or mental limitation, are unable to continue independent functioning in their own homes. See additional information under Community-Based Alternatives below.
- Community Based Alternatives (CBA) provided services to individuals who met medical necessity level of care for nursing facilities. The CBA waiver terminated on August 31, 2014 and effective September 1, 2014, the participants in the CBA program were moved into the 1115 Demonstration waiver. HCBS setting requirements will be addressed in the receiving 1115 Demonstration waiver.
- Home and Community-Based Services - Adult Mental Health Program ((HCBS-AMH) 1915(i) SPA) is intended to provide home and community-based services to adults with extended tenure in state mental health facilities in lieu of them remaining as long term residents of those facilities. Pending CMS approval, the HCBS-AMH program will provide an array of services appropriate to each individual's needs, to enable these individuals to live and experience successful tenure in their community. The State submitted the SPA on July 22, 2014. Accordingly, the submission of a transition plan does not apply to this program.

Texas Statewide Settings Transition Plan: The Texas Statewide Settings Transition Plan is composed of the following three main components: (1) Assessment Process, (2) Remedial Strategy, and (3) Public Input. The Texas Statewide Settings Transition Plan includes a timeframe and milestones for State actions, such as the various assessment and remedial actions.

Assessment Process:

The Assessment process may involve a (1) systemic (internal) review, (2) site specific assessments, (3) provider assessments and (4) identification of any settings presumed not to be home and community-based.

Systemic review: The State first determines its current level of compliance with the settings requirements. The State assesses the extent to which its rules, regulations, standards, policies, licensing requirements, and other provider requirements ensure settings comport with the HCBS settings requirements. In addition, the State assesses and describes the State's oversight process to ensure continuous compliance. The State may also assess individual settings/types of settings to further document compliance. Upon conducting the compliance assessment, if the State determines that existing standards meet the federal settings requirements and the State's oversight process is adequate to ensure ongoing compliance, the State will describe the process that it used for conducting the compliance assessment and the outcomes of that assessment. However, if the State determines that its standards may not meet the federal settings requirements, the State will include the following in its Texas Statewide Settings Transition Plan: (1) remedial action(s) to come into compliance, such as proposing new state regulations or revising existing ones, revising provider requirements, or conducting statewide provider training on the new state standards; (2) a timeframe for completing these actions; and (3) an estimate of the number of settings that likely do not meet the federal settings requirements.

Site specific assessments: States may conduct specific site evaluations through standard processes, such as licensing reviews, provider qualifications reviews, or support coordination visit reports. States may also choose to engage individuals receiving services and representatives of consumer advocacy entities in the assessment process. Evaluations may be conducted by entities such as state personnel, case managers that are not associated with the operating agency, licensing entities, managed care organizations, individuals receiving services, and/or representatives of consumer advocacy entities such as long-term care ombudsman programs and/or protections and advocacy systems. States may perform on-site assessments of a statistically significant sample of settings.

Provider assessments: The State may administer surveys of providers and include a validity check against self-evaluations.

Settings presumed not to be home and community-based: Where the State bases its assessment on state standards, the State will provide its best estimate of the number of settings that (1) fully align with the federal requirements, (2) do not comply with the federal requirements and will require modifications, (3) cannot meet the federal requirements and require removal from the program and/or relocation of the individuals, and (4) are presumptively non-home and community-based but for which the State will provide evidence to show that those settings do not have the characteristics of an institution and do have the qualities of home and community-based settings.

State Activity

First Phase of Assessment [March 2014-September 2014 for 1915(c) waivers and March 2015-September 2015 for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver] (System/Internal Review):

In the first phase of the assessment process for the 1915(c) waivers (CBA, CLASS, HCS, MDCP, DBMD, TxHmL, and YES), Texas conducted a systemic/internal review of current waiver program rules and policies identifying areas that were in compliance with the new regulation, non-compliant, or silent. In addition, the State reviewed oversight processes to determine if revisions were needed to ensure ongoing compliance with new HCBS rules. The results of the systemic/internal review of rules and policies yielded a

compliance assessment document for the 1915(c) waivers operated by the Texas Department of Aging & Disability Services (DADS) and a compliance assessment document by the Texas Department of State Health Services (DSHS) for the YES program, outlining areas of compliance and non-compliance across all of the waiver programs. The compliance assessment document indicated whether the rules and policies were silent, non-compliant or partially compliant. The compliance assessment documents are posted, respectively, on DADS and DSHS websites allowing ongoing input on the assessment process. The Texas Health & Human Services Commission (HHSC) website links to the DADS and DSHS websites to support access to the compliance assessment documents.

In July and August 2014 the State gave public notice for preliminary settings transition plans for CBA, CLASS, HCS, MDCP, and YES. Comments received were considered for incorporation into the assessment. Some suggestions were already underway, for example, the State was already in the process of adding supported employment and employment assistance to the waivers.

In addition to the systemic/internal review, the State sought additional public input on the waiver specific preliminary settings transition plans, for all of the 1915(c) waivers (CBA, CLASS, HCS, MDCP, and YES). For example, the State held an open meeting for stakeholders and the general public, on October 13, 2014. The meeting was also webcast to allow for greater participation across the State. The State accepted public testimony on waiver specific preliminary settings transition plans and additional recommendations for improving the assessment process for all of the 1915(c) waivers.

HHSC will conduct an internal review process for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver between March 2015 and September 2015. HHSC will review relevant rules and policies to determine whether settings comport with the HCBS settings requirements. In addition, the State will assess and describe the State's oversight processes to ensure continuous compliance. A compliance assessment document outlining areas of compliance and non-compliance or partial compliance will be available on the HHSC website to allow ongoing public input on the assessment process.

Between March 2015 and September 2015, the State will consider public input for the 1115 Demonstration waiver compliance assessment document, and comments will be considered for incorporation into the assessment.

The State will hold an open meeting for stakeholders and the general public on February 11, 2015 to present the amendment to the Texas Statewide Settings Transition Plan and to accept public testimony specific to the amendment. This meeting will also be webcast, and the link will be provided on the HHSC website.

Second Phase of Assessment [September 2014-December 2015 for 1915(c) waivers and September 2015- September 2016 for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver] (External Review):

Public input received during the first phase of the assessment of 1915(c) waivers indicated the need for an external assessment phase. As a result, the State will conduct additional external assessment activities for the 1915(c) waivers. The State also intends to conduct

external assessment activities for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver. The State will incorporate assessment requirements, as appropriate, into contracts.

External assessment activities for the 1915(c) waivers and the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver include the following:

- **Provider self-assessment surveys:** In order to validate the results of the first assessment phase, DADS is releasing a provider self-assessment survey to a representative sample of providers. The survey will be based on the exploratory questions provided by CMS with input from external stakeholders. The provider self-assessment survey will be developed in conjunction with providers, provider associations and advocacy organizations to ensure a comprehensive approach. Providers who are not a part of the sample can still obtain and complete a self-assessment survey on the agency websites and provide data that will be considered as the State moves forward. Based on the results of the survey, ongoing remediation strategies and the DADS compliance assessment document will be updated. DSHS will also develop similar assessments to be completed by YES providers.

In order to validate the results of the first assessment phase of the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC or its designee will develop a provider self-assessment survey that, similar to the DADS survey, will be based on CMS exploratory questions and input from external stakeholders. Based on the results of the survey, ongoing remediation strategies and the 1115 Demonstration waiver compliance assessment document will be updated.

- **Participant surveys:** In order to validate the provider self-assessment surveys, DADS is releasing a participant survey to a representative sample of individuals receiving services. The survey will be based on the questions asked in the provider self-assessment. Participants who are not a part of the sample can still obtain and complete a participant survey on the agency websites and provide data that will be considered as the State moves forward. Based on the results of the survey, ongoing remediation strategies and the DADS compliance assessment document will be updated.

In order to validate the provider self-assessment surveys for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC or its designee will release a participant survey to a representative sample of individuals receiving services and may utilize collected quality survey data. The survey will be based on the questions asked in the provider self-assessment. Based on the results of the survey, ongoing remediation strategies and the 1115 Demonstration waiver compliance assessment document will be updated.

- **Site specific assessments:** DBMD and CLASS residential providers are small in number and state resources provide for on-site visits of DBMD providers offering assisted living residential services and CLASS providers offering support family services to validate provider self-assessment results. DSHS already conducts at least annual site reviews of all providers and reviews 100% of charts. DSHS plans to conduct an additional assessment specifically to assess settings. For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC or its designee will conduct site visits for a sample of

providers that may be subject to heightened scrutiny. The types of providers visited will be based on the results of the first phase assessment and determined through discussions between managed care organizations (MCOs) and HHSC.

- **Stakeholder meetings:** The State is developing a plan for holding meetings around the state to allow providers, advocates, individuals receiving services, legally authorized representatives and other interested parties the opportunity to comment on all 1915(c) and the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver programs and any concerns regarding compliance with the new regulations.
- **National Core Indicators (NCI) Data:** The State is in the process of analyzing NCI data and will consider using it in the assessment process.
- **NCI-Aging and Disabilities (NCI-AD):** The State is reviewing the newly developed NCI-AD tool and determining its appropriateness as a data source for participant feedback relating to settings.

Texas does not have any settings in the current 1915(c) waivers or HCBS services delivered under the 1115 Demonstration waiver that are presumed not to be community-based settings according to the regulations. Possible exceptions may include day habilitation sites for 1915(c) waivers and Assisted Living Facilities (ALFs) under the 1115 Demonstration waiver.

Third Phase of Assessment June 2015-May 2016 for 1915(c) waivers

Texas will send provider self-assessment surveys to a representative sample of non-residential service providers the state identifies based on the internal assessment, public input, and additional CMS guidance, for example, day habilitation and pre-vocational service providers. Provider self-assessments will be verified by a representative sample of participant surveys. Day habilitation is not a service offered in the MDCP waiver or under the 1115 Demonstration waiver. This activity related to non-residential settings is already incorporated in the second phase of the assessment for the 1115 Demonstration waiver; thus, the 1115 Demonstration waiver will not have a separate third phase of the assessment.

Remedial Strategy:

The Remedial Strategy describes the actions the State proposes to assure initial and on-going compliance with the HCBS settings requirements, including timelines, milestones, and monitoring processes. State level remedial actions may include new requirements promulgated in statute, licensing standards or provider qualifications; revised service definitions and standards; revised training requirements or programs; or plans to relocate individuals to settings that are compliant with the regulations. Provider level remediation actions might include changes to the facility or program operation to assure that the Medicaid beneficiary has greater

control over critical activities like access to meals, engagement with friends and family, choice of roommate, or access to activities of his/her choosing in the larger community, including the opportunity to seek and maintain competitive employment.

If the State determines the need to submit evidence to CMS for the application of heightened scrutiny for settings that are presumed not to be home and community-based, the Texas Statewide Settings Transition Plan will include information that demonstrates that the setting does not have the characteristics of an institution and meets the HCB settings requirements. The State does not anticipate encountering this situation, but should it occur, the State will update the Texas Statewide Settings Transition Plan and timeline accordingly.

If relocation of beneficiaries is required as part of the remediation strategy, the Texas Statewide Settings Transition Plan will assure that the State provides reasonable notice and due process to those individuals; addresses the timeline for relocation; provides the number of beneficiaries impacted; and provides a description of the State's process to ensure that beneficiaries, through the person-centered planning process, are given the opportunity, information, and supports to make an informed choice of alternate setting that aligns, or will align with, the requirements and that critical services or supports are in place in advance of the individual's transition. The State does not anticipate encountering this situation, but should it occur, the State will update the Texas Statewide Settings Transition Plan and timeline accordingly.

State Activity

Texas has identified a number of remediation strategies to address issues of potential non-compliance:

- **Rule and policy revisions under 1915(c) waivers:** State rule revisions require extensive input from stakeholders including providers, advocates, individuals receiving services, legally authorized representatives and other interested parties. Stakeholders are given the following opportunities to review draft rule language and provide comments prior to rules becoming effective: (1) through email announcing that rule drafts are available for public comment on agency websites (Based on written comments, stakeholders may be contacted by agency staff for additional dialogue regarding proposed rule language.); (2) through public testimony before the Medical Care Advisory Committee; (3) through public testimony before the DADS Council; and (4) during the formal 30-day public comment process outlined in statute. Policy manual revisions are also shared externally and stakeholders are asked to provide comments on drafts of the policy before it becomes effective.
- **Rule and policy revisions under the 1115 Demonstration waiver:** State rule revisions require extensive input from stakeholders including providers, advocates, individuals receiving services, MCOs, and other interested parties. Stakeholders are given the following opportunities to review draft rule language and provide comments prior to rules becoming effective: (1) through public testimony before the Medical Care Advisory Committee; (2) through public testimony before the HHSC Council; and (3) during the formal 30-day public comment process outlined in statute. For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, revisions may be needed for the STAR+PLUS Handbook and the Uniform Managed Care Manual.

- **Contract changes:** For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, managed care contract updates may be necessary. The contract change process takes approximately 6 months to complete and includes a CMS review. HHSC will consider stakeholder input prior to making contract changes. Once the contract is final, it is posted to HHSC's website.
- **Revisions to processes used for provider oversight:** All 1915(c) waiver programs have oversight processes administered by regulatory (Waiver, Survey and Certification) or contract monitoring staff. Applicable tools will be revised to reflect changes in rule and policy to ensure ongoing provider assessment will include compliance with HCBS regulations to the greatest extent possible. Managed care organizations (MCOs) will provide oversight for STAR+PLUS providers under the 1115 Demonstration waiver and will be informed of any changes through provider manuals and provider contracts. Written guidance concerning rights and responsibilities for 1915(c) and STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver programs will be revised to ensure individuals receiving services understand their rights and know how to file a complaint with the appropriate state agency if there are restrictions being imposed on rights without adequate discussion and documentation through the person centered planning process.
- **MCO education:** For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC will educate MCOs on contract and policy changes. HHSC will have regular conference calls and in-person meetings with MCOs. MCOs will have the opportunity to submit questions. HHSC will keep a question and answer log to document and ensure all MCO questions are answered.
- **Provider education:** Providers will have multiple opportunities to learn about the new regulations and understand rule and policy changes. With regard to the 1915(c) waivers operated by DADS, the State will offer webinars as a main source for provider education in addition to revising new provider orientation curriculum. DSHS conducts bi-weekly conference calls with providers for the YES 1915(c) waiver. For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, MCOs will update any relevant manuals and provider training materials and HHSC may also offer webinars for MCOs and providers.

Texas does not have any settings in the current 1915(c) waivers or STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver that are presumed not to be community-based settings according to the regulations. Possible exceptions may include day habilitation sites for 1915(c) waivers and Assisted Living Facilities (ALFs) under the HCBS services delivered under the 1115 Demonstration waiver. However, if the State determines the need to submit evidence to CMS for the application of heightened scrutiny for settings that are presumed not to be home and community-based, the Texas Statewide Settings Transition Plan will be amended to include information that demonstrates that the setting does not have the characteristics of an institution and meets the HCB settings requirements.

The State does not anticipate that relocation of beneficiaries will be required as part of the remediation strategy, however, if it is, then the State will provide reasonable notice and due process to those individuals, and ensure that beneficiaries, through the person-centered planning process, are given the opportunity, information, and supports to make an informed choice of alternate setting that

aligns, or will align with, the requirements and that critical services or supports are in place in advance of the individual's transition and the Statewide Transition Plan will be amended if necessary to provide additional information.

Public Input and Notice:

Prior to filing with CMS, the State must seek input from the public for the proposed Texas Statewide Settings Transition Plan, preferably from a wide range of stakeholders representing consumers, providers, advocates, families and others.

The public input process requires the State to provide at least a 30-day public notice and comment period regarding the Texas Statewide Settings Transition Plan that the State intends to submit to CMS for review and consideration. The State must provide a minimum of two statements of public notice and public input procedures. The State must ensure that the Texas Statewide Settings Transition Plan is available to the public for public comment. The State must consider and modify the Texas Statewide Settings Transition Plan, as the State deems appropriate, to account for public comment. Upon submission of the Texas Statewide Settings Transition Plan to CMS, the State must include evidence of compliance with the public notice requirements and a summary of the comments received during the public notice period, why comments were not adopted, and any modifications to the Texas Statewide Settings Transition Plan based upon those comments.

The process for submitting public comment must be convenient and accessible. The Texas Statewide Settings Transition Plan must be posted on the State's website and include a website address for comments. In addition, the State must have at least one additional option for public input, such as a public forum. The Texas Statewide Settings Transition Plan must include a description of the public input process.

State Activity

The State intends to reach out throughout the transition to State staff, providers, MCOs, advocates, and individuals receiving services and their families. Through various venues, the State plans to educate providers and MCOs about their responsibilities, help individuals understand their rights under the new HCBS requirements, and solicit input.

Based on public input in all phases of the transition process, HHSC, DADS, and DSHS are committed to using feedback to guide remediation and assessment strategies until the transition is complete. HHSC, DADS and DSHS continue to work with internal and external stakeholders through existing statutorily mandated committees, workgroups and stakeholder meetings. The State continues to refine remediation activities in response to public input where possible.

Submission of preliminary plans and the final Texas Statewide Settings Transition Plan

The public had at least two 30-day public notice opportunities to make formal comments regarding the 1915(c) waivers, as a result of July and August 2014 public notices of the preliminary settings transition plans, and a November 2014 public notice of the Texas Statewide Settings Transition Plan. HHSC provides notice of the Texas Statewide Settings Transition Plan through the *Texas*

Register, and on the HHSC, DADS and DSHS websites. The notices provide information about the Texas Statewide Settings Transition Plans, the comment period, a link to the Texas Statewide Settings Transition Plan and locations and addresses where comments may be submitted. In addition, the DADS website sends out automatic website notices to individuals who request it. The State also provides notice to the federally recognized tribes in accordance with the Texas Medicaid State Plan and tribal agreements. The State also held a stakeholder meeting in October 2014 which included opportunities to comment on the 1915(c) waivers. The State considered and modified the Texas Statewide Settings Transition Plan, as the State deemed appropriate, to account for public comment, prior to submission of the plan to CMS.

Submission of amendments to the Texas Statewide Settings Transition Plan

Beginning January 30, 2015, the State will provide a 30-day public notice period and opportunity to make formal comments regarding the first amendment to the Texas Statewide Settings Transition Plan. HHSC provides notice of the Texas Statewide Settings Transition Plan and each amendment to it through the *Texas Register*, and on the HHSC, DADS and DSHS websites. The notices provide information about the Texas Statewide Settings Transition Plans, the comment period, a link to the Texas Statewide Settings Transition Plans and locations and addresses where comments may be submitted. In addition, the HHSC and DADS websites send out automatic website notices to individuals who request it. HHSC will provide notice of the amendment to the federally recognized tribes in accordance with the Texas Medicaid State Plan and tribal agreements. The State will consider and modify the Texas Statewide Settings Transition Plan, as the State deems appropriate, to account for public comment prior to submission of the amended plan to CMS.

In addition, the State has implemented the following public input strategy, aimed at achieving optimum public input:

- Stakeholder education webinars: DADS conducted two webinars on September 11 and September 14, 2014, to provide all stakeholders an opportunity to learn about the new regulations prior to the October 13, 2014 open meeting held in Austin.
- Conference calls: DSHS will review HCBS requirements and any necessary policy and rules changes, with providers during bi-weekly conference calls. These calls are held in lieu of webinars, and the same educational content of a webinar will be provided. Starting January 2015 and throughout the process, HHSC will hold regular conference calls with MCOs to discuss the Texas Statewide Settings Transition Plan as it relates to the HCBS services delivered under the 1115 Demonstration waiver.
- Stakeholder meetings: On October 13, 2014, the State held an open stakeholder meeting in Austin providing all 1915(c) stakeholders the opportunity to provide input on the new regulations. In addition, a meeting specifically for YES stakeholders was held by the Hogg Foundation for Mental Health in Austin on December 2, 2014. Included as topics of discussion were the settings assessment and the new HCBS rules impact on the YES waiver. An open stakeholder meeting is scheduled to be held on February 11, 2015 to provide all stakeholders with the opportunity to provide input on the addition of the 1115 Demonstration waiver specific portion to the Texas Statewide Settings Transition Plan.

- Electronic notices: The State posted the Texas Statewide Settings Transition Plan on agency websites and in the *Texas Register* in November 2014. The DADS and DSHS assessments were also posted on the agency websites. The preliminary transition plans for several of the waivers were posted in the *Texas Register* and on the agency websites. The amended Texas Statewide Settings Transition Plan, which incorporates the 1115 Demonstration waiver specific portion of the plan, was posted on the HHSC, DADS, and DSHS websites on January 30, 2015.
- Feedback mechanism: Dedicated electronic mail boxes and websites for HHSC, DADS, and DSHS are available to provide information about the new rules and accept feedback. The websites and the option to make comments will remain active throughout the transition and the State will take any comments received into consideration until the State completes the transition. State websites are located at the following hyperlinks:
 - <http://www.hhsc.state.tx.us/medicaid/hcbs/index.shtml>
 - <http://www.dads.state.tx.us/providers/HCBS/index.cfm>
 - <http://www.dshs.state.tx.us/mhsa/yes/>
- Presentations at advisory committees and stakeholder meetings: The State regularly provides updates to the following groups and offers them opportunities to comment on ongoing assessment and remediation activities:
 - Promoting Independence Advisory Committee: comprised of individuals receiving services, advocacy organizations, and providers across target populations.
 - Employment First Task Force: comprised of advocates and providers interested in employment issues.
 - Texas Council on Autism and Pervasive Developmental Disorders: comprised of parents of individuals with autism and professionals.
 - IDD Redesign Advisory Committee: comprised of individuals receiving services, advocacy organizations and providers.
 - STAR+PLUS Quality Council: comprised of managed care organizations, individuals receiving services and their representatives, advocacy organizations, and providers.
 - State Medicaid Managed Care Advisory Committee: comprised of managed care organizations, individuals receiving services and their representatives, advocacy organizations, and providers.
 - STAR+PLUS stakeholder meetings: attendees include managed care organizations, individuals receiving services, advocacy organizations, and providers.
 - Tribal stakeholder conference call meetings: comprised of designees of federally recognized tribes. On January 27, 2015, the State conducted a tribal notice stakeholder conference call. During the call, the State gave an overview of the new CMS HCBS rules and of the State's Texas Statewide Settings Transition Plan. The State also provided information on how to access the full transition plan and submit comments, and on future public hearings; and the State solicited questions and feedback on the plan during the meeting. The State holds regularly scheduled conference calls with the tribes which will provide additional opportunities for stakeholder input.
- Presentations at agency workgroups: The agencies also have agency-established workgroups comprised of advocates and providers whose purpose is to examine ongoing rule and policy issues. Staff will provide updates on HCBS transition activities and provide the workgroup members the opportunity to provide comments.

- Presentations at conferences: Provider associations hold annual conferences and State staff have been invited to speak at these conferences. This provides access to a large number of providers for purposes of education, coordination and input regarding changes being made to rules and policy.
- Provider self-assessment surveys and participant surveys: Provider self-assessment and participant surveys for stakeholders will be posted on the appropriate HHSC, DADS, and DSHS website. Providers and participants who are not a part of the representative sample used during the assessment phase, can still obtain and complete a self-assessment survey on the agency websites and provide data that will be considered as the State moves forward.

For more information or to obtain free copies of the Texas Statewide Settings Transition Plan, you may contact Becky Brownlee by mail at Texas Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711-3247, phone (512) 462-6281, fax (512) 730-7472, or by email at TX_Medicaid_Waivers@hhsc.state.tx.us.

Timeline of Texas Statewide Settings Transition Planning

Note: Effective September 1, 2014, the participants in the CBA waiver program were moved into the 1115 Demonstration waiver. The State is addressing the application of the HCBS regulation to all HCBS services provided through the 1115 Demonstration waiver in an amendment to the statewide transition plan per CMS guidance.

ASSESSMENT				
Action Items	Proposed Initiation - 1915(c)	Proposed Completion - 1915(c)	Proposed Initiation - 1115 Demonstration waiver	Proposed Completion - 1115 Demonstration waiver
Pre-Phase 1 (Recommendations received prior to the beginning of the 1115 Demonstration waiver internal assessment phase)				
Public notice and comment period for the amendment to the Texas Statewide Settings Transition Plan to incorporate the 1115 Demonstration waiver portion of the plan			January 2015	February 2015

Phase I	March 2014	September 2014*	March 2015	September 2015*
State (HHSC, DADS and DSHS) staff system/internal review of rules and policies and oversight processes governing the waivers.			N/A	N/A
State staff identification of areas in which policy and rules appeared to be silent or in contradiction with new HCBS rules.			N/A	N/A
State staff review of the assessment results and finalizing the internal assessment.			N/A	N/A
System/internal compliance assessment results for the DADS waivers posted on the DADS website for public input. HHSC website is linked to the DADS website.	July 2014			
Consider and modify the DADS compliance assessment based upon ongoing public input (e.g., stakeholder groups.).				
Submission of CBA Settings Transition Plan indicating all individuals served would move to the 1115 Demonstration waiver effective September 1, 2014, and that the HCBS settings requirements would be addressed in the 1115 Demonstration waiver.		August 22, 2014		
Submission of amendment to the Texas Statewide Settings Transition Plan to CMS to			March 2015	March 2015

incorporate the 1115 Demonstration waiver portion of the plan*				
System/internal compliance assessment results for 1115 Demonstration waiver posted on the HHSC website for public input.			July 2015	July 2015
Consider and modify the 1115 Demonstration waiver compliance assessment document based upon ongoing public input (e.g., stakeholder groups).			July 2015	
Phase II	September 2014	December 2015*	September 2015	September 2016*
Recommendations from stakeholders provided at the October 13, 2014, meeting and webcast will be considered and appropriate changes made.	October 2014			
System internal compliance assessment results for the YES waiver posted on DSHS websites for public input. HHSC website is linked to the DSHS website.	November 2014			
Public notice and comment period for the Texas Statewide Settings Transition Plan	November 2014	December 2014		
Submission of Texas Statewide Settings Transition Plan to CMS*	December 2014	December 2014		

Survey representative sample of providers using a self-assessment tool based on the new HCBS requirements. Provider self-assessments will be verified by a representative sample of participant surveys.	July 2015	December 2015*	September 2015	September 2016*
Hold additional stakeholder meetings providing individuals receiving services and providers an opportunity to provide input on the assessment and Texas Statewide Settings Transition Plan.	July 2015	December 2015*	September 2015	September 2016*
The State will continue to refine the Texas Statewide Settings Transition Plan and settings assessment based on public input.				
The State will update the assessment after completion of the entire assessment phase. The update to the assessment will be posted on the agency websites. If as a result of the assessment, there was a change in assessment findings, or the State has added additional remedial action and milestones, the State will submit an amendment or modification to the transition plan, after the required public notice and comment period.				
Phase III	January 2015	May 2016	N/A	N/A
DADS will survey a representative sample of day habilitation/prevocational providers to ascertain whether providers are	January 2015	May 2016	N/A	N/A

in compliance with CMS guidance. If applicable, DSHS will survey a representative sample of any non-residential providers to ascertain whether providers are in compliance with CMS guidance.				
A representative sample of provider self-assessments will be verified by a representative sample of participant surveys.	July 2015	December 2015	N/A	N/A
PUBLIC INPUT				
Action Items	Proposed Initiation - 1915(c)	Proposed Completion - 1915(c)	Proposed Initiation - 1115 Demonstration waiver	Proposed Initiation - 1115 Demonstration waiver
Preliminary Settings Transition Plans for HCS, CLASS and MDCP available for public comment through posting in the <i>Texas Register</i> .	July 2014	August 2014*		
Preliminary Settings Transition Plan for CBA, HCS, CLASS and MDCP available for public comment through posting on the DADS website.	July 2014	August 2014*		
Internal compliance assessment document outlining compliance and non-compliance with settings requirements across all 1915(c) waivers operated by DADS posted for public input.	July 2014	September 2014*		

Presentations to advisory committees, other committees, stakeholder meetings, and agency workgroups that have provider and advocate membership will continue throughout the assessment process. Stakeholders will have multiple opportunities to provide input.	July 2014	Continuing through the end of the transition period.	February 2015	Continuing through the end of the transition period.
Presentations at provider association annual conferences.	August 2014	Continuing through the end of the transition period.	N/A	N/A
Preliminary Settings Transition Plans for CBA and YES available for public comment through posting in the <i>Texas Register</i> .	August 2014	September 2014*		
DADS HCBS website and electronic mailbox is available to collect stakeholder input and allow public comment on the State's activities toward compliance with the settings requirements.	September 2014	Continuing through the end of the transition period.		
HHSC HCBS website and electronic mailbox is available to collect stakeholder input and allow public comment on the State's activities toward compliance with the settings requirements.	September 2014	Continuing through the end of the transition period.	September 2014	Continuing through the end of the transition period.
A public stakeholder meeting providing individuals with an opportunity to contribute feedback on the assessment process, the Preliminary Settings Transition Plans posted thus far, and implementation of the settings transition plans to all of the 1915(c)	October 2014	October 2014*		

waivers.				
Preliminary Settings Transition Plan for YES available for public comment through posting on DSHS website.	October 2014	November 2014*		
DSHS HCBS website is available to collect stakeholder input and allow public comment on the State's activities toward compliance with the settings requirements.	October 2014	Continuing through the end of the transition period.		
Internal compliance assessment document outlining compliant and non-compliant settings requirements for YES waiver posted for public input.	November 2014*	Continuing through the end of the transition period.		
The Texas Statewide Settings Transition Plan posted for public comment. Two forms of public notice were utilized: notice in the <i>Texas Register</i> and on the HHSC, DADS, and DSHS websites.	November 2014	December 2014*		
Public notice and comment period for the amendment to the Texas Statewide Settings Transition Plan to incorporate the 1115 Demonstration waiver portion of the plan			January 2015	February 2015
Submission of amendment to the Texas Statewide Settings			March 2015	March 2015

Transition Plan to CMS to incorporate the 1115 Demonstration waiver portion of the plan*				
System/internal compliance assessment results for 1115 Demonstration waiver posted on the HHSC website for public input.			July 2015	July 2015
Consider and modify the 1115 Demonstration waiver compliance assessment document based upon ongoing public input (e.g., stakeholder groups).			July 2015	
The State may implement additional stakeholder communications as such opportunities are identified.	Ongoing	Continuing through the end of the transition period.	Ongoing	Continuing through the end of the transition period.
Once an assessment phase is completed, if the assessment has resulted in a change in the findings or added specific remedial action and milestones to a waiver, the State will incorporate the public notice and input process into the appropriate submissions to CMS.				
CLASS REMEDIATION				
Action Items	Proposed Initiation	Proposed Completion		
Deliver educational webinars for CLASS providers about new HCBS guidelines.	November 2014	September 2016		
Deliver education webinars for CLASS providers on needed	January 2015	May 2018		

changes to pre-vocational services based on CMS guidance.				
Amend CLASS program rules and Chapter 49 contracting rules governing Support Family Services (SFS), Continued Support Family Services (CFS), and employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	December 2016*		
Revise the CLASS policy manual, including rights/responsibilities forms/publications, based on the assessment to further outline HCBS requirements including SFS, CFS and employment services.	April 2016	December 2016		
Develop a new contract monitoring tool for SFS, CFS and employment services to incorporate HCBS setting requirements. The revised monitoring tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.	June 2016	February 2017		
Based on CMS guidance regarding pre-vocational services, seek additional funding in 2017 legislative session.	June 2016	May 2017*		
Review and include appropriate revisions to the CLASS Settings Transition Plan.	December 2016	March 2017		
Public notice and comment period for the revised CLASS Settings Transition Plan.	April 2017	May 2017		

Submit CLASS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2017	June 2017*		
Revise the CLASS policy manual, including rights/responsibilities forms/publications, based on CMS guidance regarding prevocational services.	June 2017	March 2018		
Amend CLASS program rules and Chapter 49 contracting rules governing prevocational services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	March 2018*		
Develop a new contract monitoring tool for prevocational services to incorporate HCBS setting requirements. The revised monitoring tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.	June 2017	May 2018		
Review and include appropriate revisions to the CLASS Settings Transition Plan.	December 2017	March 2018		
Public notice and comment period for the revised CLASS Settings Transition Plan.	April 2018	May 2018		
Submit CLASS amendment updating the Settings Transition Plan with appropriate changes	June 2018	June 2018*		

based on public input after the required public notice.				
DBMD REMEDIATION				
Action Items	Proposed Initiation	Proposed Completion		
Deliver educational webinars for DBMD providers about new HCBS guidelines.	November 2014	September 2016		
Deliver educational webinars for DBMD providers on needed changes to day habilitation services based on CMS guidance.	January 2015	May 2018		
Amend DBMD program rules and Chapter 49 contracting rules governing assisted living facilities and employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	December 2016*		
Revise the DBMD policy manual, including rights and responsibilities forms/publications, to further outline HCBS requirements including assisted living services and employment services.	April 2016	December 2016		
Develop a new contract monitoring tool for employment services and assisted living to incorporate HCBS setting requirements. The revised monitoring tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.	June 2016	March 2016		
Based on CMS guidance regarding	June 2016	May 2017*		

day habilitation, seek additional funding in 2017 legislative session.				
Review and include appropriate revisions to the DBMD Settings Transition Plan.	December 2016	March 2017		
Public notice and public comment period for review of the revised DBMD Settings Transition Plan.	April 2017	May 2017		
Submit DBMD amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2017	June 2017*		
Amend DBMD program rules and Chapter 49 contracting rules governing day habilitation services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	March 2018		
Revise the DBMD policy manual, including rights and responsibilities forms/publications to further outline HCBS requirements for day habilitation services based on CMS guidance.	June 2017	March 2018		
Develop a new contract monitoring tool for day habilitation services. The revised monitoring tools will be used to ensure providers are compliant with the new rules and policies aimed at compliance with the HCBS regulations.	June 2017	May 2018		
Review and include appropriate revisions to the DBMD Settings	December 2017	March 2018		

Transition Plan.				
Public notice and public comment period for review of the revised DBMD Settings Transition Plan.	April 2018	May 2018		
Submit DBMD amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2018	June 2018*		
MDCP REMEDIATION (Note: MDCP is scheduled to transition into managed care effective 9-1-16.)				
Action Items	Proposed Initiation	Proposed Completion		
Deliver educational webinars for MDCP providers about new HCBS guidelines.	November 2014	January 2016		
Review and include appropriate revisions to the MDCP Settings Transition Plan.	December 2014	May 2016		
Public notice and public comment period for review of the revised MDCP Settings Transition Plan to be included in waiver update submitted June 2016.	April 2016	May 2016		
Submit MDCP amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	June 2016	June 2016*		
Amend MDCP program rules and Chapter 49 contracting rules governing employment services and host home services to ensure the services comply with the new	December 2015	September 2016*		

HCBS guidelines. Stakeholder input is actively solicited during the rule making process.				
Revise the MDCP policy manual, including rights and responsibilities forms/publications, to further outline HCBS requirements including employment services and host home services.	April 2016	September 2016		
Coordinate the ongoing monitoring of HCBS requirements with HHSC as MDCP is scheduled to transition into manage care effective 9-1-16.	June 2016	September 2016*		
HCS REMEDIATION				
Action Items	Proposed Initiation	Proposed Completion		
Deliver educational webinars for HCS providers about new HCBS guidelines with emphasis on residential services.	November 2014	January 2016		
Deliver educational webinars for HCS providers on needed changes to day habilitation services based on CMS guidance.	January 2015	May 2018		
Amend HCS program rules and Chapter 49 contracting rules governing residential services and employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	May 2017*		
Revise the HCS policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements and ensure specific guidance for residential services	June 2016	May 2017		

and employment services.				
Revise residential review process to incorporate focus on HCBS setting requirements based on rule revisions. Residential reviewers monitor HCS providers annually to ensure compliance with program rules.	December 2016	July 2017		
Review and include appropriate revisions to the HCS Settings Transition Plan.	August 2017	December 2017		
Public notice and comment period for review of the revised HCS Settings Transition Plan.	January 2018	February 2018		
Submit HCS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	March 2018	March 2018*		
Amend HCS program rules and Chapter 49 contracting rules governing day habilitation services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	July 2018		
Revise the HCS policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements for day habilitation based on CMS guidance.	June 2017	July 2018		
Revise residential review process to incorporate focus on HCBS setting requirements based on day	June 2017	September 2018		

habilitation rule revisions. Residential reviewers monitor HCS providers annually to ensure compliance with program rules.				
Review and include appropriate revisions to the HCS Settings Transition Plan.	December 2017	August 2018		
Public notice and comment period for review of the revised HCS Settings Transition Plan.	August 2018	September 2018		
Submit HCS amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	October 2018	October 2018*		
TxHmL REMEDIATION				
Action Items	Proposed Initiation	Proposed Completion		
Deliver educational webinars for TxHmL providers about new HCBS guidelines.	November 2014	January 2016		
Deliver education webinars for TxHmL providers on needed changes to day habilitation services based on CMS guidance.	January 2015	May 2018		
Amend TxHmL program rules and Chapter 49 contracting rules governing employment services to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	January 2016	May 2017*		
Revise the TxHmL policy manual, including rights and responsibilities forms/publications and billing	June 2016	May 2017		

guidelines to further outline HCBS requirements and ensure any needed guidance for delivery of employment services.				
Based on CMS guidance regarding day habilitation, seek additional funding in 2017 legislative session.	June 2016	May 2017*		
Revise certification review process to incorporate focus on HCBS setting requirements based on rule revisions. Certification reviewers monitor TxHmL providers to ensure compliance with program rules.	December 2016	July 2017		
Review and include appropriate revisions to the TxHmL Settings Transition Plan.	August 2017	December 2017		
Public notice and public comment period for review of the revised TxHmL Settings Transition Plan.	January 2018	February 2018		
Submit TxHmL amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	March 2018	March 2018*		
Amend TxHmL program rules and Chapter 49 contracting rules governing day habilitation services based on CMS guidance to ensure the services comply with the new HCBS guidelines. Stakeholder input is actively solicited during the rule making process.	June 2017	July 2018		
Revise the TxHmL policy manual, including rights and responsibilities forms/publications and billing	June 2017	July 2018		

guidelines to further outline HCBS requirements for day habilitation based on CMS guidance.				
Review and include appropriate revisions to the TxHmL Settings Transition Plan.	December 2017	August 2018		
Public notice and public comment period for review of the revised TxHmL Settings Transition Plan.	August 2018	September 2018		
Submit TxHmL amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	October 2018	October 2018*		
YES REMEDIATION				
Action Items	Proposed Initiation	Proposed Completion		
If determined necessary based on assessment and public input, amend YES program rules and other necessary rules and policies to ensure the services comply with the new HCBS guidelines.	November 2014	November 2015*		
If determined necessary based on assessment, revise the YES policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements.	April 2015	January 2016		
If determined necessary based on assessment, revise the YES policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements for non-residential settings.	April 2015	January 2016		
If determined necessary based on	April 2015	January 2016		

assessment and public input, amend YES program rules and other necessary rules and policies to ensure the services comply with the new HCBS guidelines.				
Review HCBS requirements, policy changes and rules changes, if necessary, with providers during bi-weekly conference calls.	Ongoing	Continuing through the end of the transition period.		
Conduct ongoing monitoring of HCBS requirements and any related policy or rules changes.	Ongoing	Continuing through the end of the transition period		
Review and include appropriate revisions to the YES Settings Transition Plan.	January 2016	August 2016		
Public notice and public comment period for review of the revised YES Settings Transition Plan.	September 2016	October 2016		
Submit YES amendment updating the Settings Transition Plan with appropriate changes based on public input after the required public notice.	November 2016	November 2016*		

*represents milestone activities

Shaded areas represent amendments to the statewide transition plan and related public notices.

1115 Demonstration waiver REMEDATION				
Action Items	Proposed Initiation	Proposed Completion		
Amend Uniform Managed Care Contract, Uniform Managed Care Manual, STAR+PLUS Handbook, and program rules as needed to ensure the services comply with the new HCBS guidelines.	September 2016	December 2018*		

Monitor MCOs to ensure they revise manuals, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements and ensure any needed guidance for delivery of services.	September 2016	December 2018		
If necessary, review and include appropriate revisions to the 1115 Demonstration waiver portion of the Texas Statewide Settings Transition Plan.	October 2017	October 2017		
If an amendment to the Statewide Settings Transition is necessary, provide public notice and public comment period for review of the amended Texas Statewide Settings Transition Plan.	November 2017	November 2017		
If an amendment to the Statewide Settings Transition is necessary, submit the amendment to the Texas Statewide Settings Transition Plan with appropriate changes to CMS based on public input after the required public notice.	December 2017	December 2017*		
Amend Uniform Managed Care Contract, Uniform Managed Care Manual, STAR+PLUS Handbook, and program rules as needed to ensure the services comply with the new HCBS guidelines based on CMS guidance.	March 2018	December 2018		
Monitor MCOs to ensure they revise manuals, including rights and responsibilities	March 2018	December 2018		

forms/publications and billing guidelines to further outline HCBS requirements and ensure any needed guidance for delivery of services.				
Review and include appropriate revisions to the 1115 Demonstration waiver STAR+PLUS HCBS portion of the Texas Statewide Settings Transition Plan.	September 2018	September 2018		
Public notice and public comment period for review of the amendment to the Texas Statewide Settings Transition Plan.	October 2018	November 2018		
Submit amendment updating the Texas Statewide Settings Transition Plan to CMS with appropriate changes based on public input after the required public notice.	December 2018	December 2018*		

Texas Statewide Settings Transition Plan Comments Summary

The State plans to solicit public input throughout its transition planning and received public comments and input through the following:

- Public notice in the Texas Register.
- Public notice of the 1115 Demonstration waiver amendment to the Texas Statewide Settings Transition Plan through a public stakeholder meeting in February 2015; and
- Dedicated email boxes on the HHSC website for comments regarding transition activities.

Public notice for the 1115 Demonstration waiver amendment to the Texas Statewide Settings Transition Plan was given in the *Texas Register* and on the HHSC website. The Texas Register is published weekly and is the journal of state agency rulemaking for Texas. In addition to activities related to rules, the Texas Register publishes various public notices including attorney general opinions, gubernatorial appointments, state agency requests for proposals and other documents. HHSC publishes all Medicaid waiver submissions in the Texas Register in addition to many other notices. The publication is available online and in hard copy at the Texas State Library and Archives Commission, the State Law Library, the Legislative Reference Library located in the State Capitol building, and the University of North Texas libraries. All of these sites are located in Austin, except for the University of North Texas, which is located in Denton. The Texas Register is also available through paid subscription. The State provided public notice of the 1115 Demonstration waiver amendment to the Texas Statewide Settings Transition Plan in the Texas Register (40 TexReg 469) at the following hyperlink:

- www.sos.state.tx.us/texreg/pdf/backview/0130/0130is.pdf

The amended Texas Statewide Settings Transition Plan was posted in its entirety for public comment on the HHSC website at the following hyperlink:

- <http://www.hhsc.state.tx.us/medicaid/hcbs/index.shtml>

During the January-February 2015 public comment period for the 1115 Demonstration waiver amendment to the Texas Statewide Settings Transition Plan, the State received written comments from two commenters, Pediatrix Medical Group and Disability Rights Texas. The State also received verbal comments from Susan Murphree with Disability Rights Texas during the February stakeholder meeting.

Although this amendment and related public notice is for the purpose of adding the 1115 Demonstration waiver-specific portion to the Texas Statewide Settings Transition Plan, the State received comments related to the other waiver programs. Comments received during the public notice period for this amendment that were not related to the 1115 Demonstration waiver were not included in this amendment to the Texas Statewide Settings Transition Plan because public notice for this amendment was specific to changes related to the 1115 Demonstration waiver. However, the State is committed to receiving comments and updating the Texas Statewide Settings Transition Plan as necessary throughout the transition. Therefore, any changes suggested to other waiver-specific plans will be addressed and submitted to CMS in later amendments to the Texas Statewide Settings Transition Plan. The State also received a comment that was completely outside the scope of the settings requirements imposed under 42 CFR §441.301, therefore, this comment will not be addressed.

A summary of the comments received during the public notice period, reasons why comments were not adopted, and any modifications to the Texas Statewide Settings Transition Plan based upon those comments follows. The State's current plan already includes an internal and external assessment of all HCBS waiver services delivered under the 1115 Demonstration waiver and whether the settings in which these services are provided comport with the HCBS settings requirements.

1. Comment: Assisted living facilities (ALFs) and facility-based day programs should be considered as they may be problematic based on CMS guidance. The State should acknowledge that there are issues that will probably need to be addressed and remediation strategies that are person-centered and that meet CMS guidance.

State Response: The State will consider these suggestions as it moves forward with the next stages of implementing the Texas Statewide Settings Transition Plan. The current Texas Statewide Settings Transition Plan already addresses that ALFs may be an issue and, thus, assessment of ALFs was already a part of the plan. 42 CFR 441.301(c)(5)(v) addresses settings that are presumed not to be community-based settings, however, the rule provides general guidelines and does not list specific settings, such as ALFs. In its guidance to states, CMS recognized that some ALFs might meet the description of presumed not to be community-based setting while others may not. Prior to completion of the assessment phase, the State does not presume that the ALFs in its 1115 Demonstration waiver fit within the scope of presumed not to be community-based settings, however, as indicated in the settings transition plan, the State understands that it might be problematic and intends to use the assessment process and additional CMS guidance to determine if the ALFs fit within the realm of presumed not to be community-based settings. If the settings are found to be presumed not to be community-based settings, the State will address the issue by rebutting the presumption or taking steps to address the setting if it is found to be not community-based. The State's plan already provides a timeframe to update the Texas Statewide Settings Transition Plan after the completion of the assessment phase to address the results of the assessment in the form of an amendment to the plan and

references this possibility in the remediation phase. The STAR+PLUS program does not provide any HCBS waiver services in facility-based day programs. Although STAR+PLUS program participants may receive day activity and health services (DAHS), they are provided as state plan services, not waiver services.

2. Comment: The State should re-assess respite services and the settings where respite is offered now or is proposed to be offered in the future, including institutional settings such as nursing facilities (NFs), assisted living facilities (ALFs), and intermediate care facilities (ICFs). Greater effort should be made to support respite options that are community-based.

State Response: The State will consider these suggestions as it moves forward with the next stages of implementing the Texas Statewide Settings Transition Plan. HHSC will assess respite to the extent that it is provided in settings that are relevant to CMS guidance. 42 CFR 441.301(c)(5)(v) addresses settings that are presumed not to be community-based settings, however, the rule provides general guidance and does not list specific settings, such as ALFs. In its guidance to states, CMS recognized that some ALFs might meet the description of presumed not to be community-based setting while others may not. Prior to completion of the assessment phase, the State does not presume that the ALFs in its 1115 Demonstration waiver fit within the prevue of this section of the rules, however, as indicated in the settings transition plan the State understands that it might be problematic and already intended to use the assessment process and additional CMS guidance to determine if the ALFs fit the within the realm of presumed not to be community-based settings. If the settings are found to be presumed not to be community-based settings, the State will address the issue by rebutting the presumption or taking steps to address the setting if it is found to be not community-based. The State's plan already provides a timeframe to update the Texas Statewide Settings Transition Plan after the completion of the assessment phase, in the form of an amendment to the plan, and references this possibility in the remediation phase.

42 CFR 441.301(c)(5) prohibits the provision of home and community-based services in nursing facilities, institutions for mental disease, intermediate care facilities for intellectuals with disabilities and hospitals because these settings have been defined by the regulations to be not home and community-based. The State's plan already provides a timeframe to update the Texas Statewide Settings Transition Plan after the completion of the assessment phase, in the form of an amendment to the plan. To the extent that the State's assessment should reveal services are being provided in these settings, the State would develop a transition plan to move the provision of the services to a setting in compliance with the regulations, if possible, or discuss other options with CMS if no such facility exists within the individual's geographic area. The plan already addresses this possibility in the remediation phase.

3. Comment: Commenter is unsure how day activity and health services (DAHS) and the Program of All-inclusive Care for the Elderly (PACE) services may be considered under the HCBS guidance.

State Response: DAHS and PACE are not applicable to the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver as defined by 42 CFR §440.180. Thus, the settings transition plan will not be changed at this time to address this comment.

4. Comment: During the February stakeholder meeting, a commenter indicated that there appears to be a need to address day habilitation, and that respite is provided differently and in different settings and as such might need further review. She further stated it is good to know about the National Core Indicator's new module for Aging and Disability (NCI-AD), and that the participant experience survey is a good thing. The commenter also suggested that there could be meetings on specific topics; that every MCO should be doing the same version of surveys; and that Disability Rights is thinking about assisted living facilities, as is HHSC. She finally suggested HHSC may want to involve the Promoting Independence Advisory Committee (PIAC) going forward.

State Response: The State will consider these suggestions as the state moves forward with the next stages of implementing the transition plan. As previously discussed, the State will assess ALFs and settings in which respite is provided to the extent that a service is provided in a setting relevant to CMS guidance. Day habilitation is not a STAR+PLUS HCBS service delivered under the 1115 Demonstration waiver, thus, it is not being addressed in this amendment. However, the Texas Statewide Settings Transition Plan already indicates that day habilitation will be addressed during the assessment phase for the 1915(c) waivers. The plan already provides for discussion of the settings and the transition plan as part of the presentations throughout the transition process to advisory committees and agency workshops as well as at stakeholder meetings. The current Texas Statewide Settings Transition Plan already includes the provider surveys and the follow-up participant surveys. All providers will receive the same version of the survey, just as all participants will receive the same version of their survey. The current Texas Statewide Settings Transition Plan process includes obtaining feedback from current advisory committees, and HHSC plans to include the PIAC.