



State of New Mexico

Statewide Home and Community-Based Services Transition Plan
Amendment

**Human Services Department
Medical Assistance Division
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Background

On January 16, 2014, the Centers for Medicare & Medicaid Services (CMS) published a Final Rule which addresses several sections of the Social Security Act and makes changes to the 1915(c) Home and Community-Based Services (HCBS) waiver program. The Final Rule was designed to improve available HCBS programs by ensuring the quality of HCBS, providing protections to participants, enabling participants to have the same opportunity to receive services in the most integrated setting appropriate and have full access to community living opportunities.

The main focus of the HCBS Final Rule is to ensure that all Home and Community-Based (HCB) settings meet certain qualifications¹, including:

- Integration in, and supports access to, the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community; to the same degree of access as individuals not receiving Medicaid HCBS;
- Selection by the individual from among all settings options that are identified and documented in the person-centered service plan and are based on the individual's needs and preferences;
- Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimize autonomy and independence in making life choices; and
- Facilitate choice regarding services and who provides them.

In December 2014, CMS issued guidance to states with Section 1115 demonstrations that include HCBS as part of the program design. The notice clarified that states currently operating HCBS programs, regardless of the federal authority under which the programs operate, must submit a Statewide Transition Plan for approval. The Statewide Transition Plan must include the state's assessment of its regulations, standards, licensing requirements and provider requirements against the requirements in the Final Rule. The Statewide Transition Plan is also to describe the State's ongoing strategies to accomplish compliance with all federal requirements, including timeframes and deliverables.

Overview of Existing HCBS Programs and Authorities

In addition to the HCBS Final Rule applying to 1915(c), 1915(i), 1915(j), and 1915(k) authorities, CMS issued guidance in December 2014 to states with Section 1115 demonstrations that include HCBS as part of the program design. The New Mexico Human Services Department's Medical Assistance Division (MAD) provides HCBS under the following four programs:

¹ *CMS Fact Sheet: Summary of Key Provisions of the HCBS Settings Final Rule.* January 10, 2014.

- 1915(c) Mi Via Waiver
- 1915(c) Developmental Disabilities Waiver
- Section 1115 Centennial Care Demonstration
- 1915(c) Medically Fragile Waiver

Each of these programs will be addressed in the New Mexico Statewide Transition Plan.

Mi Via Waiver Program

New Mexico has been at the forefront of HCBS self-direction waivers with the implementation of the Mi Via Waiver in 2006. This waiver, targeted to Medically Fragile (MF) individuals and individuals with Intellectual or Developmental Disabilities (ID/DD), was originally designed and developed with self-direction and person-centered planning at its core. It is administered by the Department of Health (DOH). Person-centered planning remains a key program component, as such, Mi Via service and support plans (SSPs) are developed through a person-centered planning process which guides the participant's selection of services to achieve personally defined outcomes in the most integrated community setting. As of November 30, 2014, 818 participants received services through the Mi Via Waiver. Through the provision of services and supports identified through the SSP and the implementation of a quality assurance and the improvement strategies, the State ensures the health and welfare of the individuals in the program. In addition, the program provides assurances of fiscal integrity and includes participant protections that will be effective and family-friendly.

Developmental Disabilities Waiver Program

The Developmental Disabilities-HCBS waiver serves individuals with ID or persons with specific related conditions and DD that occur before the age of 22 and is administered by DOH. As of November 30, 2014, 3,914 participants received waiver services. New Mexico provides community-based services designed to increase independence and achieve personal goals while providing care and support to enable individuals to live as active members of the community while ensuring health and safety. The purpose of the program is to provide a broad range of flexible community-based services outlined in an Individual Service Plan (ISP) that will support individuals to live successfully in their community and become more independent. Similar to the Mi Via Waiver program, among other assurances, the state ensures the health and welfare of participants, the fiscal integrity of the program, and provides for participant protections that will be effective and family-friendly.

Centennial Care Demonstration

Centennial Care has been providing a comprehensive and coordinated array of Medicaid services, including HCBS (the Community Benefit) and behavioral health services, since January 1, 2014 in a managed care delivery system. There are two different HCBS delivery models within the Centennial Care Demonstration. They are Agency Based Community Benefit (ABCB) and Self-Directed Community Benefit (SDCB). In ABCB, members work with care coordinators to develop a care plan and select community benefit providers in the managed

care organization (MCO) network. The member's MCO ensures payment to community benefit providers. In SDCB, members work with a support broker, develop a care plan, select their own providers, authorize timesheets and ensure payment to their providers. Currently, over 22,000 individuals receive HCBS through the Community Benefit. The goal of Centennial Care is to assure that Medicaid participants in the program receive the right amount of care at the right time and in the most cost-effective or "right" settings. It also ensures that care being purchased under the program is measured in terms of quality and not quantity. The key components of Centennial Care include:

- Integrated benefits provided through contracted managed care health plans;
- Comprehensive person-centered care coordination system with personalized plans of care;
- Health literacy focus that uses community health workers, community health representatives, promotoras, and other trained, lay-workers to help individuals through the system; and
- Personal responsibility for our participants to become more active in their own health and more efficient users of the health care system.

Medically Fragile Waiver Program

New Mexico's Medically Fragile Waiver program is intended for individuals who have been determined to have both an MF condition and a DD and live in their homes. The individuals under the waiver program receive services such as case management, private duty nursing, home health aides, physical therapy (PT), speech therapy (ST), occupational therapy (OT), psychosocial counseling, and nutritional counseling.

The Medically Fragile Waiver will expire on June 30, 2015. New Mexico will transition this waiver population of 236 individuals (79 from the Mi Via Waiver) into the Section 1115 Centennial Care Demonstration on January 1, 2016 as approved by CMS. The Medically Fragile Waiver's assessment for compliance with the HCBS Final Rule will be folded in as part of the Centennial Care assessment process. The State will ensure all applicable changes as a result of the assessment process will include the Medically Fragile Waiver program population as they transition into Centennial Care.

New Mexico's Approach to Statewide Transition Plan

New Mexico previously submitted waiver-specific transition plans for the Mi Via Waiver and Developmental Disabilities Waiver due to the timing of the Mi Via Waiver renewal and Developmental Disabilities Waiver amendment. The Mi Via Waiver transition plan was submitted to CMS for approval November 14, 2014. The Developmental Disabilities Waiver transition plan was submitted to CMS January 6, 2015. As stated previously, CMS issued guidance in December 2014 to New Mexico regarding the inclusion of the Centennial Care Demonstration in the Statewide Transition Plan because of the HCBS services provided under that program.

In light of this new requirement, New Mexico reached out to CMS for guidance on the timing of including Centennial Care into the Statewide Transition Plan. Based on discussions with CMS, New Mexico received approval to proceed with a multi-phase approach for developing our Statewide Transition Plan. The first phase of the Statewide Transition Plan incorporated the specific timelines and approaches for both the Mi Via Waiver and the Developmental Disabilities Waiver and was submitted to CMS on March 17, 2015.

In the second phase, the State amended the Statewide Transition Plan previously submitted to CMS to address the activities and timelines associated with the Centennial Care Demonstration. The amended Statewide Transition Plan was posted for public comment and submitted for Tribal Notification on March 23, 2015. The amendment will enable New Mexico to ensure that tribal leaders, stakeholders, and advocates are allowed the appropriate opportunity to provide input on the Centennial Care assessment-related activities through the tribal notification process and public comment period. Both the Mi Via and the Developmental Disabilities Waivers already completed their individual public comment periods, which are addressed later in this Statewide Transition Plan and in the separate transition plans.

To the extent possible, the assessment process activities for Centennial Care will mirror the activities completed for both the Mi Via and the Developmental Disabilities Waivers, including a Centennial Care contract, MCO policy manual and State rules assessment, provider assessment and survey, member survey, remediation strategies, and ongoing monitoring. The Centennial Care assessment will also include additional activities, as appropriate, to address the role of MCOs and issues unique to the managed care delivery system.

New Mexico is committed to a strong stakeholder engagement in the implementation of the Statewide Transition Plan. As a result, multiple opportunities to obtain stakeholder support will be sought throughout the process. Stakeholder input will be of critical importance during assessment and remediation activities. Key to the process however, for the Mi Via and Developmental Disabilities Waivers will be the Advisory Council on Quality Supports for Individuals with IDD and Their Families (ACQ). We refer you to the Transition Plan Timeline below for specific references to the ACQ's involvement.

Centennial Care will utilize the four MCO's Member Advisory Boards to obtain focused stakeholder support and feedback for implementation of the Statewide Transition Plan. Each MCO is required to convene a Member Advisory Board to advise the MCO on issues concerning service delivery and quality of all covered services (e.g., behavioral health, physical health and long-term care), member rights and responsibilities, resolution of member grievances and appeals and the needs of groups represented by Member Advisory Board members as they pertain to Medicaid. Member Advisory Boards consist of members representing all Centennial Care populations, family members, and providers. As a result, we believe that the MCO Member Advisory Boards are ideal for this purpose.

Transition Plan Timeline

The timeline for New Mexico's compliance with the HCBS Final Rule is located in Table 1 below. The timeline provides the road map of specific major activities that have occurred or will occur after receiving approval from CMS in order for the State to achieve full compliance with the HCBS Final Rule by March 17, 2019. As appropriate, the timeline will be updated to reflect Centennial Care's compliance review and related activities.

Table 1 – Statewide Transition Plan Timeline

Activity	Target Completion Date
Stakeholder Engagement for Transition Plan	
Mi Via Waiver	
Tribal notification.	Completed (9/8/14)
Public notice released to stakeholders.	Completed (9/14/14)
Public notice posted to State website.	Completed (9/14/14)
Newspaper announcements published.	Completed (2nd week of 9/2014)
Public hearing held.	Completed (10/14/14)
Public comments due back from all stakeholders.	Completed (10/15/14)
Review, incorporate, and respond to public comments.	Completed (10/16/14)
Transition Plan submitted to CMS.	Completed (11/14/14)
Final Transition Plan posted on State website.	Completed (11/14/14)
Developmental Disabilities Waiver	
Tribal notification.	Completed (10/31/14)
Public notice posted to State website.	Completed (11/13/14)
Newspaper announcement published on public hearing.	Completed (11/30/14)
Public hearing held.	Completed (12/15/14)
Public comments due back from all stakeholders.	Completed (12/16/14)
Review, incorporate, and respond to public comments.	Completed (12/17/14)
Transition Plan submitted to CMS.	Completed (1/5/15)
Final Transition Plan posted on State website.	Completed (1/5/15)
Statewide Transition Plan (Mi Via Waiver and Developmental Disabilities Waiver)	
Submit Mi Via Waiver Transition Plan to CMS with waiver renewal (included separate public input process).	Completed (11/14/14)
Submit Developmental Disabilities Transition Plan to CMS with waiver amendment (included separate public input process).	Completed (1/5/15)
Submit Statewide Transition Plan to CMS (see public notice process below).	Completed (3/11/15)
Statewide Transition Plan Amendment Process (Centennial Care Demonstration)	
Draft Statewide amended Transition Plan submitted for Tribal Consultation.	Completed (3/23/15)
Public Notice posted for draft Statewide amended Transition Plan.	Completed (3/24/15)
Public comment period closes.	Completed (4/22/15)
Tribal consultation and public comment period closes.	Completed (5/25/15)
Update Statewide Transition Plan based on public comments if necessary.	Completed (5/28/15)
Submit Statewide amended Transition Plan to CMS.	Completed (6/1/15)
Regulations, Standards, Waiver Application Assessment, Centennial Care Contract, Special Terms and Conditions (STCs) and MCO Policy Manual	
Mi Via Waiver Assessment Process	
Non-Residential Settings Analysis	
Establish workgroup to conduct assessment review.	Completed (3/3/14)
Crosswalk of regulations, standards, and waiver application completed.	Completed (7/1/14)
Complete analysis of crosswalk to determine compliance and identify compliance issues.	Completed (8/29/14)
Revise the Mi Via service standards to expand the definition of Customized Community Group Supports (CCGS) to include requirements that CCGS services are provided in an integrated community setting that supports opportunities for participants to access community resources and activities with others in their community.	6/30/15
Revise CCGS provider packets with updated service definition.	6/30/15

Activity	Target Completion Date
Train Consultants on the new CCGS service standards and monitor implementation through SSP development.	7/31/15
Present findings to the ACQ for Individuals with ID/DD and their families and obtain feedback.	6/11/15
Developmental Disabilities Waiver Assessment Process	
Residential Settings Analysis	
Establish workgroup to conduct assessment review.	Completed (7/1/14)
Crosswalk of regulations, standards, and waiver application completed for residential settings.	Completed (6/2/14)
Complete analysis of crosswalk to determine compliance and identify compliance issues.	Completed (7/21/14)
Present findings to the ACQ for Individuals with ID/DD and their families and obtain feedback.	Completed (8/12/14)
Update Developmental Disabilities Waiver standards to ensure eligible recipients have access to food at any time.	7/1/15
Update Developmental Disabilities Waiver standards to allow for eligible recipients have visitors at any time.	7/1/15
Update Developmental Disabilities Waiver standards for leasing arrangements to allow for privacy in sleeping or living units; units have lockable doors; allowing for keys to the recipients and appropriate staff.	7/1/15
Non-Residential Settings Analysis	
Establish workgroup to conduct assessment review.	Completed (2/11/15)
Crosswalk of regulations, standards, and waiver application completed for residential settings.	Completed (3/6/15)
Complete analysis of crosswalk to determine compliance and identify compliance issues.	Completed (3/6/15)
Present findings to the ACQ for Individuals with ID/DD and their families and obtain feedback.	6/11/15
Revise waiver service standards and distribute to providers.	7/1/15
Develop and distribute training documents on revised service standards.	2/1/16
Conduct statewide trainings, including technical assistance for providers needing additional assistance to achieve compliance.	3/1/16
Centennial Care Assessment Process	
Residential Settings Analysis	
HSD staff conducts assessment review.	Completed (3/11/15)
Crosswalk of the Centennial Care contract, STC, regulations, and MCO policy manual was completed for residential settings.	Completed (3/11/15)
Complete analysis of crosswalk to determine compliance and identify compliance issues	Completed (3/11/15)
Present findings to the Member Advisory Boards and obtain feedback.	3 rd Quarter Board Meeting 2015
Collaborate with DOH to ensure Assisted Living Facilities (ALF) licensure requirements fully comply with the HCBS requirements.	7/1/15
Update MCO policy manual to ensure Assisted Living Facilities (ALF) allow same responsibilities/protection from eviction as all tenants under landlord law of state, county, city or other designated entity.	10/01/15
Update MCO policy manual for ALF leasing arrangements to allow for privacy in sleeping or living units; units have lockable doors; allowing for keys to the recipients and appropriate staff.	10/01/15
Non-Residential Settings Analysis	
HSD staff conducts assessment review.	Completed (3/11/15)
Crosswalk of the Centennial Care contract, STC, regulations and MCO policy	Completed (3/11/15)

Activity	Target Completion Date
manual was completed.	
Complete analysis of crosswalk to determine compliance and identify compliance issues.	Completed (3/11/15)
Revise MCO policy manual to expand the definition of Customized Community Supports (CCS); Adult Day Health and Employment Supports to include requirements that services are provided in an integrated community setting that supports opportunities for members to access community resources and activities with others in their community.	10/01/15
Revise MCO policy manual to include in the written plan: allow individuals the opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	10/01/15
Revise MCO policy manual to include in the written plan: individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others.	10/01/15
Hold education events for providers, care coordinators and support brokers on the new MCO policy manual and monitor implementation through care plan development.	10/01/15
Present findings to the Member Advisory Boards and obtain feedback.	3 rd Quarter Board Meeting 2015
Provider Survey Process	
Mi Via Waiver – Consultant Agencies/Vendors	
Draft survey.	Completed (4/6/15)
Finalize comprehensive survey respondent lists.	Completed (5/22/15)
Finalize survey.	Completed (5/22/15)
Surveys distributed to respondent lists.	Completed (5/22/15)
Training webinar/conference call on surveys for potential respondents.	6/3/15
Consultant agency/vendor survey closes.	6/24/15
Follow-up with consultant agency/vendor survey non-respondents.	7/22/15
Compile and analyze draft consultant agency/vendor survey results.	8/19/15
Final analysis of survey results and report completed.	9/30/15
Present findings to the ACQ for Individuals with ID/DD and their families and obtain feedback.	12/18/15
Developmental Disabilities Waiver – Providers	
Draft survey.	Completed (4/6/15)
Finalize comprehensive survey respondent lists.	Completed (5/22/15)
Finalize survey.	Completed (5/22/15)
Surveys distributed to respondent lists.	Completed (5/27/15)
Training webinar/conference call on surveys for potential respondents.	6/3/15
Provider survey closes.	6/24/15
Follow-up with provider survey non-respondents.	7/22/15
Compile and analyze draft provider survey results.	8/19/15
Final analysis of survey results and report completed.	9/30/15
Present findings to the ACQ for Individuals with ID/DD and their families and obtain feedback.	12/18/15
Centennial Care Demonstration – Community Benefit Providers	
Draft survey.	Completed (4/6/15)
Finalize comprehensive survey respondent lists.	Completed (5/22/15)
Finalize survey.	Completed (5/22/15)
Surveys distributed to respondent lists.	Completed 5/27/15)
Training webinar/conference call on surveys for potential respondents.	6/3/15

Activity	Target Completion Date
Provider survey closes.	6/24/15
Follow-up with provider survey non-respondents.	7/22/15
Compile and analyze draft provider survey results.	8/19/15
Final analysis of survey results and report completed.	9/30/15
Present findings to the Member Advisory Boards and obtain feedback.	4 th Quarter Board Meeting 2015
Provider Training (MI Via Consultant Agencies/Vendors and Developmental Disabilities Waiver Providers)	
Identify areas and issues to be addressed in training on HCBS Final Rule and issues identified in consultant agency/vendor and provider surveys.	12/1/15
Determine appropriate venues and training approaches.	1/1/16
Develop training materials.	1/1/16
Schedule training.	2/1/16
Conduct training.	3/1/16
Provider Training – Centennial Care Demonstration	
Identify areas and issues to be addressed in training on HCBS Final Rule and issues identified in support broker agency/vendor and provider surveys.	12/01/15
Create workgroup of MCO, DOH and HSD staff	7/01/15
Workgroup to determine appropriate venues and training approaches.	1/1/16
Workgroup develop training materials.	1/1/16
Workgroup schedule training.	2/1/16
Workgroup conduct training.	3/1/16
Provider Validation Checks	
Mi Via Waiver	
Monitor provider compliance outcome as a result of training.	7/1/16
Identify issues warranting attention, address with providers, and provide technical assistance.	9/1/16
Developmental Disabilities Waiver	
Developmental Disabilities Supports Division (DDSD) will conduct an on-site validity audit to ensure provider self-assessments were accurate, using the Division of Health Improvement (DHI) tool.	7/1/16
Identify issues warranting attention, address with providers, and provide technical assistance.	2/1/16
Centennial Care Demonstration	
Workgroup develop audit tool for provider compliance.	5/1/16
HSD and MCO conduct audit of providers.	12/1/16
HSD and MCOs compile results of audit as result of training.	2/1/17
HSD and MCOs provide technical assistance to providers and monitor provider compliance outcomes as a result of training.	3/1/17
Workgroup to identify issues warranting attention, address with MCOs, and provide technical assistance.	5/1/17
HSD and MCOs will identify provider issues warranting attention, address with providers and provide technical assistance.	5/1/17
Participant Survey Process for Mi Via and Developmental Disabilities Waivers	
Draft participant survey questions for inclusion into the National Core Indicators (NCI) consumer survey.	5/1/17
Finalize comprehensive survey respondent lists.	5/1/17
Finalize survey questions.	5/1/17
Surveys distributed to respondent lists through the NCI consumer survey mechanism.	6/1/17
Participant survey closes.	7/31/17
Final analysis of survey results and report completed.	1/1/18

Activity	Target Completion Date
Present findings to the ACQ for Individuals with ID/DD and their families and obtain feedback.	4/30/18
Member Survey Process for Centennial Care Demonstration	
Draft member survey questions.	5/1/17
Finalize comprehensive survey respondent lists.	5/1/17
Finalize survey.	5/1/17
Surveys distributed to respondent lists.	6/1/17
Participant survey closes.	7/31/17
Final analysis of survey results and report completed.	1/1/18
Present survey findings to Member Advisory Boards and obtain feedback.	2 nd Quarter Board Meeting 2018
Remediation Activities following Participant Survey	
Mi Via Waiver	
Analyze survey results to determine impact on compliance activities and/or necessary remediation actions.	9/1/17
Identify issues and address with providers.	10/1/17
If applicable, develop remediation strategies to bring non-compliant services and/or settings into compliance with the HCBS Final Rule.	10/1/17
Implement remediation strategies.	1/1/18
Developmental Disabilities Waiver	
Analyze survey results to determine impact on compliance activities and/or necessary remediation actions.	9/1/17
Identify issues and address with providers.	10/1/17
If applicable, develop remediation strategies to bring non-compliant services and/or settings into compliance with the HCBS Final Rule.	10/1/17
Implement remediation strategies.	1/1/18
Centennial Care Demonstration	
Analyze survey results to determine impact on compliance activities and/or necessary remediation actions.	9/1/17
Identify issues and address with providers.	10/1/17
If applicable, develop remediation strategies to bring non-compliant services and/or settings into compliance with the HCBS Final Rule. This includes collaboration with DOH.	10/1/17
Implement remediation strategies.	1/1/18
Provider Monitoring Process	
Mi Via Waiver	
Develop plan for ongoing compliance monitoring activities.	12/1/16
Present plan to the ACQ for Individuals with ID/DD and their families and obtain feedback.	12/1/16
Implement plan.	1/1/17
Developmental Disabilities Waiver	
Develop plan for ongoing compliance monitoring activities.	12/1/16
Present plan to the ACQ for Individuals with ID/DD and their families and obtain feedback.	12/1/16
Implement plan.	1/1/17
Centennial Care Demonstration	
Develop plan for ongoing compliance monitoring activities.	12/1/16
Present plan to the Member Advisory Boards and obtain feedback.	4 th Quarter Board Meeting 2016
Implement plan.	1/1/17

Assessment Process – Systematic Statewide Review

Regulations, Standards, Waiver Application Assessment, Centennial Care Contract, Special Terms and Conditions (STCs) and MCO Policy Manual

The State is committed to completing a systematic statewide review of its waiver applications, applicable waiver program standards, and applicable New Mexico Administrative Codes (NMAC) for each of its HCBS programs against the requirements set forth in the HCBS Final Rule. Additionally, for Centennial Care the review will also include assessment of the Centennial Care contract, the STCs and the MCO policy manual. This paper assessment crosswalk is the first step to determining the extent to which our HCBS programs comply with the existing federal requirements.

Mi Via Waiver Program

The assessment completed for the Mi Via Waiver found that the waiver, service standards, and NMAC rules comply with the HCBS Final Rule. The State's analysis included a thorough review of each sub-category within the HCBS Final Rule compared against the requirements in the approved waiver application, State standards, and the NMAC rules. For example, for the HCB settings requirement that the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, it was found that the approved waiver description (Appendix C) and the person-centered planning process described in Appendix D--Service Plan Development is compliant with this provision. Likewise, the State's service standards were found to be in compliance with the requirement. This level of analysis was continued for each of the HCBS Final Rule sub-categories. The analysis for the Mi Via Waiver program was completed by MAD and DOH staff and included review of the following:

- Service standards 2/2012
- NMAC 8.314.6
- 1915(c) waiver application

The specific results of the Mi Via Waiver assessment review can be found in Appendix A. It is important to note that the analysis only addressed state requirements for non-residential settings. Assisted living will be removed as a covered service under the Mi Via Waiver renewal. Mi Via participants reside either in their own home or in the home of a family member or other caretaker.

Developmental Disabilities Waiver Program

Similar to the Mi Via Waiver, MAD and DOH staff completed an assessment of the extent to which the waiver, operating standards, and NMAC rules complied with the specific requirements of the HCBS Final Rule. The following were reviewed for the Developmental Disabilities Waiver:

- 1915(c) waiver application
- Developmental Disabilities Waiver service standards, effective November 1, 2102/ revised April 23, 2013
- NMAC 8.314.5

For the assessment of residential settings, the analysis found that the majority of the HCB settings requirements were addressed in State standards, NMAC, and policies with the exception of the following three areas:

1. The eligible recipient has a lease or other legally enforceable agreement providing similar protections. Each eligible recipient has privacy in their sleeping or living unit. Units have lockable entrance doors, with him or her and appropriate staff having keys to doors as needed.
2. The eligible recipient has access to food at any time. Modifications to the Developmental Disabilities Waiver standards will include information necessary for Human Rights Committee review when food has the potential to be a danger to the eligible recipient.
3. An eligible recipient may have visitors at any time.

New Mexico has addressed these three areas in the remediation section below. The results of the Developmental Disabilities Waiver systematic review of residential settings can be found in Appendix B.

For the assessment of non-residential settings, the analysis found that in general there are State standards, NMAC, and policies in place that address and support the requirements for HCB settings. However, some key attributes of HCB settings are not currently addressed. The State will be making appropriate updates to State standards, NMAC and policies, as appropriate, to reflect the HCB setting requirements for non-residential settings. The review of non-residential settings can be found in Appendix C.

Centennial Care Demonstration

HSD staff completed the assessment for the Centennial Care Demonstration and found that the Centennial Care contract, STC, MCO policy manual and NMAC rules generally comply with the HCBS Final Rule. The State's analysis included a thorough review of each sub-category within the HCBS Final Rule compared against the requirements in the Centennial Care contract, STC, MCO policy manual, and the NMAC rules. The specific results of the analysis are attached as Appendix H. The analysis for the Centennial Care Demonstration included review of the following:

- Policy Manual 8/14/2014
- NMAC 8.308 Parts: 8, 10, 11, 12; 15; NMAC 7.8.2; NMAC 7.13.2;
- Centennial Care contract/Special Terms and Conditions (STCs)

Person-Centered Planning Compliance

The State recognizes and supports the significance of person-centered planning in HCBS programs. New Mexico's person-centered planning process is consistent across our HCBS programs and was developed to ensure that individuals receiving long-term services and supports through HCBS programs in the State have full access to their community. The State's person-centered planning process is also intended to assure the SSP, ISP and Comprehensive Care Plan (CCP) addresses the health and long-term services and support needs that are reflected in the participant's preferences and goals. In our HCBS programs, the resulting SSP

and ISP will assist the participant/member in achieving personally defined outcomes and goals and ensure that waiver services are provided in qualified HCB settings selected by the individual.

The State's assessment of the HCBS person-centered planning process for the Mi Via and Developmental Disabilities Waivers and the Centennial Care Demonstration evaluated the key provisions that must be reflected in the participant's/member's plan, as required by the HCBS Final Rule. The following key provisions² are reflected in the Mi Via SSP³, Developmental Disabilities ISP and CCP:

- Individual's strengths and preferences;
- Clinical and support needs;
- Goal and desired outcomes;
- Providers of services/supports, including unpaid supports provided in lieu of waiver or State Plan HCBS;
- Risk factors and measures in place to minimize risk; and
- Individualized backup plans and strategies when needed.

² *Informational Review of GHSC Clients, Medicaid Home and Community-Based Services New Rules.* Mercer Government Human Services Consulting. June 27, 2014. p 11.

³ *Mi Via Self-Directed Waiver Program Service Standards. Appendix B: Service and Support Plan (SSP) Template.* New Mexico Department of Health. April 25, 2011.

Table 2: Person Centered Planning Process for Mi Via, Developmental Disabilities Waivers and Centennial Care Demonstration

Key Provisions of HCBS Final Rule for Person-Centered Service Plan/Planning⁴:	Mi Via SSP, Developmental Disabilities ISP and Centennial Care CCP Process/ Planning*
Setting is chosen by the individual and is integrated in, and supports full access to, the greater community.	Yes
Opportunities to seek employment and work in competitive integrated settings.	Yes
Opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Yes
Individual's strengths and preferences.	Yes
Clinical and support needs.	Yes
Goals and desired outcomes.	Yes
Providers of services/supports, including unpaid supports provided voluntarily in lieu of waiver or State Plan HCBS.	Yes
Risk Factors and measures in place to minimize risk.	Yes
Individualized backup plans and strategies, when needed.	Yes

Provider Assessment

In order to establish a baseline of provider compliance, MCOs, MAD and DOH (or their designee) will first implement a provider survey. Surveys will be targeted for specific provider types, will be web-based, and will be focused on the CMS exploratory questions. Paper surveys will be available if needed for providers that cannot access the survey electronically. This survey will assess service delivery in several areas, such as choice of provider, community access and integration, living space/physical space (if a residential setting), privacy staff interactions and privacy, and the participant's experience with the services.

⁴ *Informational Review of GHSC Clients, Medicaid Home- and Community-Based Services New Rules.* Mercer Government Human Services Consulting. June 27, 2014. p 11.

The State is committed to ensuring that each HCBS provider meets the requirements set forth under the HCBS Final Rule. The State will implement multiple methodologies to assess and determine provider compliance with the HCBS Final Rule. The following service provider types will be assessed as follows:

Developmental Disabilities Waiver Services:

- Living providers (Family, Intensive Medical, and Supported)
- Customized Community Support providers
- Community Integrated Employment providers

Mi Via Waiver Services:

- Living and Other Supports – vendors
- Community Membership Supports – vendors (Customized Community Group Supports and Employment Supports)

Centennial Care Community Benefits:

- ABCB:
 - Assisted Living
 - Adult Day Health
 - Employment Supports
- SDCB:
 - Customized Community Supports
 - Employment Supports

Mi Via Waiver Program

For the Mi Via Waiver, surveys will be distributed to consultant agencies and/or vendors. The State believes this is a reasonable approach to obtain a foundation for provider compliance given: 1) the volume of direct care providers in the program would not make it feasible to conduct a survey with a low nonresponse rate, therefore surveying vendor agency providers ensures compliance and a response rate that is representative for providers servicing Mi Via participants and 2) the fact that consultant agencies and/or vendors are as close to the providers as possible under this consumer-directed model of care.

The State or its designee will provide education and training regarding the survey. Assistance will be made available to respond to questions about the survey and to offer technical assistance in completing the survey, if needed. A system will be developed and implemented to collect, track, monitor, and analyze surveys and responses.

New Mexico will analyze responses to the self-reported surveys to determine provider compliance. Review of the findings will help the State identify areas where changes will need to be made to bring non-compliant providers into full compliance with federal requirements. These results will be shared with stakeholders and CMS upon completion.

Survey findings will be used to help target training opportunities for waiver providers. The trainings will be directed to those areas identified through the survey as warranting attention. The trainings will also be used as an opportunity to provide an overview of the HCBS Final Rule and requirements.

Following the provider trainings, MAD and DOH will conduct validity checks of provider compliance through ongoing monitoring activities that may include: participant complaints, fair hearing requests, waiver quality assurance monitoring activities, and SSP reviews. The result will be to determine the effectiveness of training initiatives. Technical assistance will be made available to providers as part of ongoing monitoring activities.

As necessary, providers found to be out of compliance, following the participant survey will be required to implement remediation activities to address identified issues. These activities may include implementation of corrective action plans. Remediation activities must be prior approved by the State.

Developmental Disabilities Waiver Program

The Developmental Disabilities Waiver provider assessment process will follow the same steps as those noted above for the Mi Via Waiver program: 1) initial provider assessment to determine baseline; 2) provider training focused and targeted to identified issues and HCBS Final Rule overview; and 3) provider validation checks.

As part of the provider assessment analysis, DOH reviewed the provider types offering services under the Developmental Disabilities Waiver and identified currently 77 Living providers (Family, Intensive Medical, and Supported), 79 Customized Community Supports providers, and 43 Community Integrated Employment providers statewide that provide Developmental Disabilities Waiver residential, day, and employment services. These provider types will be targeted for self-assessment surveys for the Developmental Disabilities Waiver to determine compliance with HCBS Final Rule requirements.

For the validity checks, the DOH DDS regional offices will perform a validity check on a subset of provider agency responses to the provider self-assessment survey. This audit will begin on July 1, 2016 and end on December 31, 2016.

The Human Services Department (HSD), in collaboration with DOH Division of Health Improvement (DHI) and DOH DDS, will modify the current survey tool incorporating requirements from the CMS Final Rule and outlined in the revised Developmental Disabilities Waiver service standards. The survey tool will be revised by December 1, 2016 and DHI will implement it during its routine provider surveys beginning in 2017 to ensure compliance by the start of 2018. DHI will conduct surveys of providers once every three years or sooner, as determined necessary.

Centennial Care Demonstration

The Centennial Care Demonstration provider assessment process will follow the same steps as those noted above for the Mi Via Waiver and Developmental Disabilities Waiver programs: 1) initial provider assessment to determine baseline; 2) provider training focused and targeted to identified issues and HCBS Final Rule overview; 3) provider validation checks; and 4) as appropriate, provider remediation. However, key distinctions will exist in the two approaches, which are noted below.

As part of the provider assessment analysis, HSD reviewed the provider types offering services under the ABCB and identified currently 61 Assisted Living providers; seven Adult Day Health providers; and one Employment Support provider; for SDCB services there were 10 Customized Community Supports providers and two Employment Supports vendors identified. These provider types will be targeted for self-assessment surveys for the Centennial Care Demonstration to determine compliance with HCBS Final Rule requirements.

Provider training will be conducted by HSD and MCOs. HSD will share with MCOs training requirements and expectations and work together to develop training materials.

HSD, in collaboration with the MCOs and possibly DOH, will conduct audits of providers between July 1, 2016 and December 31, 2016.

HSD, in collaboration with the MCOs, will modify the current provider satisfaction survey, incorporating requirements from the CMS Final Rule. The survey tool will be revised by December 1, 2016 and the MCOs will implement it during its routine provider surveys beginning in 2017 to ensure compliance by the start of 2018.

Participant/Member Assessment

In addition to surveying providers, New Mexico feels it is important to also receive feedback from participants on whether they feel the settings in which they receive care comply with the HCBS Final Rule. The Mi Via and Developmental Disabilities Waivers will use the NCI consumer survey for this purpose. To the extent possible, survey questions will align with questions used in the provider survey.

Every effort will be made to minimize the burden on participants in completing the survey and to facilitate the process. Assistance will be made available to respond to questions about the survey and to offer technical assistance in completing the survey.

A system will be developed and implemented to collect, track, monitor, and analyze surveys and responses.

The results of the NCI consumer survey will be compared with the results of the provider surveys, for a given provider, to determine if there is any improvement. Remediation activities will be implemented for those providers determined to be out of compliance.

HSD, in collaboration with the MCOs, will create a member survey, separate from CAHPS, inclusive of members who are not “Medicaid-only.” The survey will obtain feedback from members on whether they feel the settings in which they receive care comply with the HCBS Final Rule. Questions for the member survey will be mapped to questions in the provider surveys in order for the assessment process to be done in a balanced approach.

Every effort will be made to minimize the burden on members in completing the survey and to facilitate the process. Assistance will be made available to respond to questions about the survey and to offer technical assistance in completing the survey.

Remediation Strategies/Activities

State Level Remediation Activities Resulting from Assessment of Regulations, Standards, and Waiver Application, Centennial Care contract, STCs and MCO Policy Manual

New Mexico has identified areas in the service standards that did not address all requirements of the CMS Final Rule during the crosswalk analysis for Mi Via Waiver, the Developmental Disabilities Waiver programs and the Centennial Care Demonstration. Below are steps New Mexico has identified that will be taken to ensure the program service standards incorporating all aspects of the CMS Final Rule.

Mi Via Waiver Program

Through the State’s review of Mi Via’s service standards, it was determined that the service standard for CCGS required modification to achieve compliance with the CMS Final Rule. A remediation action the State is pursuing includes expanding the definition of CCGS in the Mi Via service standards to include information that CCGS services are provided in an integrated community setting that supports opportunities for participants to access community resources and activities with others in their community. New Mexico will revise CCGS provider packets to include an attestation that the services and supports provided will be delivered in a community-based integrated setting. The State will send a notice to each CCGS enrolled provider to submit the required attestation. The State will inform participants and consultant agencies of the attestation via the Mi Via newsletter. New Mexico will train consultant agencies on the new CCGS service standards that will monitor implementation through SSP development implementation and quarterly reviews.

The target date for release of the revised service standards is June 30, 2015. Using this as a timeline, training on the new service standards will be provided to Mi Via consultant agencies by July 31, 2015 and offered to Mi Via participants, employees, vendors, and other interested stakeholders by October 31, 2015.

Developmental Disabilities Waiver Program

The State will incorporate changes identified through the review of waiver rules, standards, and regulations for the Developmental Disabilities Waiver. The three areas that need to be updated in the service standards include:

1. The eligible recipient has a lease or other legally enforceable agreement providing similar protections. Each eligible recipient has privacy in their sleeping or living unit. Units have lockable entrance doors, with him or her and appropriate staff having keys to doors as needed.
2. The eligible recipient has access to food at any time. Modifications to the Developmental Disabilities Waiver standards will include information necessary for Human Rights Committee review when food has the potential to be a danger to the eligible recipient.
3. An eligible recipient may have visitors at any time.

The revised Developmental Disabilities Waiver service standards will be completed by July 1, 2015. In addition, DOH plans on conducting training for its providers on the newly revised standards. Training documents will be disseminated to Developmental Disabilities Waiver providers by February 1, 2016 and the training of providers will begin on March 1, 2016 and will be completed by July 1, 2016.

Centennial Care Demonstration

The State will update NMAC Rules, and the MCO policy manual based upon issues and deficiencies identified during the assessment review. Also, as part of a comprehensive STC amendment process, the State will add to the list any necessary modifications for CMS approval.

The revised MCO policy manual will be completed by October 1, 2015. In addition, HSD plans to conduct training, in collaboration with the MCOs, for its providers on the new requirements. Training documents will be disseminated to providers by February 1, 2016 and the training of providers will begin on March 1, 2016 and will be completed by July 1, 2016.

Based upon identified issues, HSD may also need to modify the Centennial Care contract in order to ensure that all requirements are adequately addressed. Finally, HSD and the MCOs may also need to consider the extent to which any provider will need to implement corrective action plans should a provider be found to be deficient regarding compliance with the HCBS Final Rule.

Provider Level Remediation Strategies

Mi Via Waiver Program

If the CCGS provider does not comply with the State requirement of completing and submitting an attestation that the services and supports provided will be delivered in a community-based integrated setting, the State will not process the provider's CCGS provider packet until the attestation is completed.

Developmental Disabilities Waiver Program

If a provider is unable to comply with waiver standards, DOH will provide the eligible recipients with a freedom of choice form to select a new provider and will relocate that eligible recipient to a provider that is compliant. When relocation is necessary, HSD will make available to the eligible participant reasonable notice of his or her due process rights. An eligible participant, through the person-centered planning process, is given the opportunity, the information, and the

support to make an informed choice of an alternate setting that aligns with the waiver standards and that critical services and supports are in place in advance of his or her transition.

DOH will ensure that appropriate planning takes place to facilitate a smooth transition of an eligible participant to an alternative environment. Every possible consideration will be given to eligible participant's choices. Unless precluded by circumstances posing a danger to the health, safety, or welfare of the eligible participant or others prior to relocation, the Interdisciplinary Team will convene at least 30 calendar days prior to the proposed transition. This will allow for the development of the eligible participant's relocation Transition Plan and to properly execute the Plan. A provider will not be allowed to discharge an eligible participant until all requirements are followed and all avenues are pursued to keep the person in a setting that meets his or her choice and needs for waiver services. In no instance may an eligible participant be discharged from a provider until alternative arrangements are made to meet the eligible participant's immediate needs.

Centennial Care Demonstration

If the CCS and/or Employment Supports provider(s) do not comply with the State requirement of completing and submitting an attestation that the services and supports provided will be delivered in a community-based integrated setting, the State will not process the provider's packet until the attestation is completed.

If a provider is unable to comply with the requirements, the MCO will provide the eligible member with an in-network provider directory to select a new provider and will relocate that eligible member to a provider that is compliant. When relocation is necessary, the MCO will make available to the eligible member reasonable notice of his or her due process rights. The eligible member, through the person-centered planning process, is given the opportunity, the information, and the support to make an informed choice of an alternate setting that aligns with policy.

HSD will ensure that appropriate planning takes place by the MCO, to ensure a smooth transition takes place for the eligible member to an alternative environment. Every possible consideration will be given to accommodate the eligible member's choices. Unless precluded by circumstances posing a danger to the health, safety or welfare of the eligible member, the Interdisciplinary Team will convene at least 30 calendar days prior to the proposed transition. This will allow for the development of the eligible member's relocation transition plan and to properly execute the plan. A provider will not be allowed to discharge an eligible member until all requirements are followed and all avenues are pursued to keep the person in a setting that meets his or her choice and needs for waiver services. In no instance may an eligible member be discharged from a provider until alternative arrangements are made to meet the eligible member's immediate needs. The MCO will ensure that critical services and supports are in place in advance of his or her transition.

HSD will collaborate with DOH to ensure additional remedial strategies are implemented for ALFs to ensure full compliance with the CMS requirements. Other provider level remediations may also need to be considered such as the provider enrollment packets containing new HCBS requirements to information incoming providers at time of application.

Participants/Members

It is critical to maintain continuous communication with participants/members, family members, stakeholders, and advocacy groups throughout implementation of a Transition Plan to ensure they are familiar with the rights afforded to participants under the new rule and kept abreast of critical activities and milestones. The State is committed to continuous communication to waiver participants and other stakeholders by providing information through venues including, but not limited to, newsletter articles, website postings, and public meetings.

Ongoing Monitoring

The State will monitor compliance with the HCBS settings requirements for all HCBS programs on an ongoing basis. For example, the Mi Via Waiver will ensure ongoing compliance with the requirements by requiring consultant agencies to ask participants quarterly about their satisfaction with community inclusion related to Customized Community Group Supports. The Mi Via Waiver will also verify the CCGS vendor attestation in provider enrollment packets. Participant monitoring for the Mi Via Waiver will include an analysis of the results from the NCI consumer survey.

In regards to the Developmental Disabilities Waiver, as noted previously, HSD, in collaboration with DOH DHI and DDSD, will revise the current survey tool incorporating requirements from the revised Developmental Disabilities Waiver Service Standards. The survey tool will be revised by December 1, 2016 and DHI will implement it during its routine provider surveys beginning in 2017 to ensure compliance by the start of 2018. DHI will conduct surveys of providers once every three years or sooner, as determined necessary. Participant monitoring for the Developmental Disabilities Waiver will include an analysis of the results from the NCI consumer survey.

In regards to the Centennial Care Demonstration, support brokers and care coordinators will continue to ask members about their satisfaction with community benefits and will monitor outcomes.

Ongoing monitoring for all programs will also include, as appropriate:

- Regular provider communication on specific, identified issues;
- Training for new providers on HCB settings requirements and CMS and State expectations;
- Education and outreach to participants on relevant issues; and
- HSD collaboration with DOH to ensure ongoing monitoring efforts.

Public Comment Process

New Mexico is committed to ensuring the broad public feedback on the Statewide Transition Plan through the public comment process. Both the Mi Via Waiver and the Developmental

Disabilities Waiver completed their individual public comment processes prior to submitting their separate Transition Plans to CMS with their waiver amendments.

The public notice process for the Statewide Transition Plan that includes Centennial Care began March 24, 2015 with a general 30-day public comment period and a 60-day Tribal Notification process. The general public comments were due back to HSD by April 27, 2015. The complete public notice process concluded May 25, 2015.

Below is a summary of the public comment process and comments received for the Mi Via Waiver, the Developmental Disabilities Waiver. A summary of the public comments received for the amended Statewide Transition Plan, including the Centennial Care Demonstration, can be found in Appendix I.

Mi Via Waiver Public Comment Process

The Mi Via Transition Plan's public input process consisted of a notice and public hearing. On September 14, 2014, a 30-day notice was sent to all stakeholders informing them of the HCBS Final Rule Transition Plan and notification of a public hearing. The notice provided background information on the Final Rule; proposed Modification to the Mi Via Waiver; outlined directions for public comment; and testimony opportunities. The notice also provided a link to the HSD webpage where the full Transition Plan was available for public viewing and comment. Additional notice to inform tribal leaders and tribal health care providers was also sent on September 8, 2014. The notice was sent and input was sought from a wide range of stakeholders representing active waiver recipients, persons on the Central Registry who are individuals that could be served in the future, providers, advocates, and families. The notices were emailed and mailed via the United States Postal Service. Newspaper announcements in the Albuquerque Journal and Las Cruces Sun were published during the second week of September. Individuals were invited to submit comments via postal mail, email, fax, or phone by five (5) pm October 15, 2014. The State's public input period met the requirement that it be no less than a 30-day period. A public hearing for the HCBS settings Transition Plan was held October 14, 2014.

Two public comments were received as a result of the Mi Via Waiver Transition Plan public input:

Comment #1: *"Will Mi Via transition to Centennial Care program?"*

State response: The Mi Via Waiver is under renewal. At this time HSD and DOH have no plans to transition Mi Via to the Centennial Care Demonstration.

Comment #2: *"The Mi Via Waiver is a self-directed option to the Developmental Disabilities Waiver or (formerly) Disabled and Elderly Waiver. Don't see this (waiver renewal changes and transition plan) having any impact on Pueblo of Jemez tribal members since we are not aware of anyone in Jemez who is on this. Most Developmentally Disabled recipients under Mi Via don't participate in the Day Hab settings described or opt to use Assisted Living Facilities and other*

populations who use Assisted Living facilities (elders, physically disabled) are still able to do so regardless of the changes proposed here. Mi Via is in such limited use, these changes won't have much of an impact on anyone, much less native populations."

State response: An analysis of service utilization for CCGS and Assisted Living Services utilization by Native American participants was conducted by the Human Services Department, Medical Assistance Division. The State foresees no negative impact to Native American participants as the data showed zero utilization of CCGS and Assisted Living by Native American participants.

No modifications were made to the Transition Plan as a result of the public input process. There were no instances where the State's determination of HCBS settings compliance differed from public comments.

Developmental Disabilities Waiver Public Comment Process

The Human Services Department (HSD) and the Department of Health (DOH) created a public comment period that provided an opportunity for the widest array of stakeholders and interested parties to provide input on the New Mexico Developmental Disabilities Waiver (DDW) Amendment and Transition Plan. Public notices for public comment were distributed to the following groups:

1. Mailed to current DDW Recipients.
2. Mailed to individuals on the Central Registry.
3. Emailed to providers (266 parties).
4. Mailed to interested parties (192 parties).
5. Emailed to members of the DDW Advisory Committee on Quality (ACQ).
6. Mailed to Tribal Leaders.
7. Attended the Native American Technical Advisory Committee (NATAC) meeting (see attached agenda).

Notices for public comment were published in the two largest newspapers on November 13, 2014 and November 14, 2014. We have attached a copy of the notices for your review.

Notices were posted on the HSD website:

1. October 20, 2014 (14-14): Tribal Notification Posted DDW Amendment and Transition Plan
<http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx>
2. November 13, 2014: Posted DDW Application Renewal and Transition Plan with attachments
<http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>

The comment period was October 20, 2014 through December 15, 2014. HSD and DOH received written comment on the DDW Proposed Transition Plan. We received no comments on the Proposed DDW Amendment. HSD and DOH used the public comments to form final decisions and the two departments responded in detail to all public comments received.

The comments were posted on the HSD website.

<http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>

Below are the comments received regarding the Developmental Disabilities Waiver Transition Plan:

Comment #1: *Under the transition plan proposed by HSD, the Developmental Disabilities Waiver service standards will be revised to comply with the HCBS Final Rule. The State will train Developmental Disabilities Waiver service providers on the use of these new service standards based largely upon self-assessment survey results completed by those providers. The State should take steps beyond analyzing self-assessments to ensure that providers are correctly utilizing the new service standards.*

State Response: New Mexico's Transition Plan includes many steps beyond the provider self-assessment process:

- a) A self-assessment to be completed by providers by June 1, 2015 will provide the State direction as to where training is needed. The self-assessment allows for provider buy-in and takes into account their input in this process.
- b) The State is currently revising the Developmental Disabilities Waiver service standards, which will be completed and distributed to providers July 1, 2015.
- c) On February 1, 2016 training documents will be distributed to providers.
- d) On March 1, 2016 the State will conduct statewide provider trainings including technical assistance to providers who request further assistance to come into compliance.
- e) On July 1, 2016 the State will conduct an on-site validity audit to ensure the answers providers submitted on the self-assessment were accurate.
- f) DHI will begin auditing providers on January 1, 2017. This DHI audit process includes a plan for additional technical assistance, guidance, and intensive training by DDSD in order for providers to come into compliance.
- g) On January 1, 2018 all providers should be in compliance with the new HCBS Final Rule. The State is offering providers many opportunities and sufficient time to come into compliance with the new federal rule.

Comment #2: *The policies outlined in the current Developmental Disabilities Waiver service standards and the regulations governing the waiver programs often comply with the law and CMS requirements. However, in practice, these policies are often incorrectly applied by service providers in the community. As a result, training and clear direction for service providers is vital to ensure compliance with present and future rules.*

State Response: The provider self-assessment and State on-site validity audit will confirm where providers are not in compliance with service standards and other written material requiring person-centered planning and fully integrated community settings. All providers will be given intensive training and technical assistance as outlined in our transition plan.

Comment #3: *The State of New Mexico has adopted the Supports Intensity Scale ("SIS") for resource allocation within the Developmental Disabilities Waiver system. HSD continues to use the SIS as the only factor to determine the base budget and ancillary services that will be available to each Developmental Disabilities Waiver participant. HSD has assured CMS that it is committed to providing person-centered planning for Developmental Disabilities Waiver participants. However, a service plan driven by individual needs and preferences is not possible as long as the state continues to utilize the SIS as the sole factor used to determine the availability of Developmental Disabilities Waiver services.*

State Response: As the comment is based on several false premises, including: 1) that the SIS is not a "person-centered" tool, 2) that the SIS is the sole factor used to determine the availability of Developmental Disabilities Waiver services, and 3) that the State fails to utilize an individual's interdisciplinary team (IDT) in the development of the individual service plan, the conclusion drawn is similarly faulty. In addition, the commenter cites the Title 7 NMAC regulations outside the context of the SIS assessment in misrepresenting the role of the IDT. CMS has repeatedly, both for New Mexico and for other states, accepted the SIS as a person-centered assessment tool. And as the commenter is fully aware, in addition to the SIS, the State uses other factors in determining the extent of Developmental Disabilities Waiver services available for each eligible recipient, including supplemental questions developed by the State of Oregon to identify those with extraordinary medical and behavioral needs. The IDT was - and remains - the primary source in the determination of a recipient's individualized services in the individual service plan (ISP). Regardless of group assignment, an array of services is available to each person from which they can choose. The State provides for opportunities for additional services through the Group H process.

Comment #4: *As part of the transition plan proposed by HSD, New Mexico has assured CMS that they are already in compliance with a majority of the policies dictated by the new rules. However, DRNM notes a number of ways in which the State is not in compliance with CMS requirements.*

State Responses:

- a) Access: DDSD's Meaningful Day requirements outlined in the Developmental Disabilities Waiver Standards mean individual access for individuals with developmental disabilities to support their participation in activities and functions of community life that are desired and chosen by the general population. The

term day does not exclusively denote activities that happen between 9 a.m. and 5 p.m. on weekdays. This is also a component of the ISP.

b) Cultural Considerations: 7.26.5.9 NMAC Guiding Principles No. 9, states that the planning process shall be tailored to each individual's culture, communication style, physical requirements, learning style, and personal preferences. The ISP identifies the individual's native language and whether an interpreter is needed. Also, Section B-8 of the CMS approved waiver states, "Informational materials are available in English and Spanish. Spanish-speaking individuals are available at the HSD/ISD offices and at HSD and DOH statewide toll-free numbers. Direct service waiver providers are required to communicate in the language that is functionally required by the participant. Interpreters and translators are available under contract with the DOH. Each DOH/DDSD Regional Office maintains designated bi-lingual staff including Navajo speakers in the northwest region of the state."

c) Risk Factors: The ISP process includes specific language regarding risk factors and how to plan for risks. In addition, Appendix D-1 of the approved CMS waiver states the following:

The case manager will explain the following:

- supports and services available in the waiver that are necessary to obtain the goals and outcomes;
- risk associated with the outcomes and services identified and possible options to mitigate the risks;
- Provides information and linkage for enhancing natural supports.

d) Freedom from Coercion and Restraint: Appendix G-2 of the approved CMS waiver states that restraints are prohibited pursuant to the DDSD Aversive Intervention Prohibition Policy. In addition, the DOH has the following policies regarding freedom from coercion and restraints:

- 2010 Human Right Committee Requirement Policy – Section IV
- 2010 Aversive Intervention Prohibitions Policy
- 2010 Behavioral Crisis Intervention Plan Policy – Section III
- 2010 Psychotropic Medication Use Policy – Section IV

e) Compliance with 42 CFR § 441.301 (c)(4)(vi) (A-D), 42 CFR § 441.301 (c)(4)(vi)(F)(1-4), and 441.530(F):

The Developmental Disabilities Waiver Service Standards are currently being revised to address:

- Access to food and visitors at any time; and
- A unit or dwelling or place that can be owned or rented by the individual through the use of a legally enforceable agreement.

In addition, DOH is creating a new, specific policy regarding Least Restrictive Alternatives (LRA) and will revise the Aversive Prohibition and Human Rights Committee policies to align with the pending LRA policy.

Statewide Transition Plan (including Centennial Care)

HSD created a public comment period from March 23, 2015 through April 22, 2015 that provided an opportunity for the widest array of stakeholders and interested parties to provide input on New Mexico's Statewide Transition Plan that included the Centennial Care Demonstration. Public notices for public comment were distributed to the following groups:

Notices for public comment were published in the State's two largest newspapers on March 23, 2015. Tribal Consultation notices were mailed on March 23, 2015. In addition, an email was sent on March 26, 2015 to interested parties.

Notices were posted on the HSD website:

1. March 24, 2015 Tribal Notification Posted for the Statewide Transition Plan
<http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx>
2. March 24, 2015: Posted Statewide Transition Plan for general public input
<http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>

The public comments responding to the Statewide Transition Plan were posted on the HSD website. A summary of public comments received and HSD's response and action are addressed in Appendix I.

Appendices

Appendix A: Mi Via Waiver Assessment of Waiver, Service Standards, NMAC Rules

Appendix B: Developmental Disabilities Waiver Assessment of Waiver, Service Standards, NMAC Rules for Residential Services.

Appendix C: Developmental Disabilities Waiver Assessment of Service Standards, NMAC Rules for Non-Residential Services.

Appendix D: Mi Via HCBS Compliance by Setting

- Consultative Services
- Living Supports and Other Supports
- Community Membership Supports
- Health and Wellness Supports

Appendix E: Developmental Disabilities HCBS Compliance by Setting

Appendix F: Mi Via Waiver Transition Plan

Appendix G: Developmental Disabilities Waiver Transition Plan

Appendix H: Assessment of Centennial Care Contract, MCO Policy Manual, Special Terms and Conditions (STC) and New Mexico Administrative Code (NMAC) Rules

Appendix I: Public Comments on Statewide HCBS Transition Plan

Appendix A: Mi Via Waiver Assessment of Waiver, Service Standards, NMAC Rules

CMS Rule	Approved Waiver NM.0448	Service Standards 02.2012	NMAC 8.314.6
Sub-category HCBS Setting Requirements			
Is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community.	Application: 2. Brief Waiver Description; Appendix D: Service Plan Development	p. 4, B-C	NMAC 8.314.6.9 Mi Via HCBS Waiver: Section A.
Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources.	Appendix C: Employment Supports; Appendix E -1: Participant Direction of Services	Appendix A: p 35-41	NMAC 8.314.6.15 F (2)
Ensures the individual receives services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Application: 2. Brief Waiver Description; Appendix C; Appendix E -1: Participant Direction of Services	p. 4, B-C; 7	NMAC 8.314.6.9 A
The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting.	Application: 2. Brief Waiver Description; Appendix C; Appendix E -1: Participant Direction of Services	p.11	NMAC 8.314.6.7 (U); NMAC 8.314.6.15 A
The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Application: 2. Brief Waiver Description; Appendix C; Appendix E -1: Participant Direction of Services	p. 18-20	NMAC 8.314.6.15 C, D; NMAC 8.314.6.17 A (3-4); NMAC 8.314.6.17 C
Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Appendix F; Appendix G	p. 6	NMAC 8.314.6.15 G (1) (d) (v)
Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Appendix D; Appendix E-1	p. 4, B-C	NMAC 8.314.6.15 G (1); NMAC 8.314.6.15 G (1)(b); NMAC 8.314.6.15 G (5)(a)(iv)
Facilitates individual choice regarding services and supports, and who provides them.	Application: 2. Brief Waiver Description; Appendix C; Appendix E -1: Participant Direction of Services	p. 4, B-C, 11, 18-20; Appendix B	NMAC 8.314.6.7 H; NMAC 8.314.6.14 D; NMAC 8.314.6.15; NMAC 8.314.6.15 B; NMAC 8.314.6.15 G (3); NMAC 8.314.6.17 (2)

CMS Rule	Approved Waiver NM.0448	Service Standards 02.2012	NMAC 8.314.6
Sub-category Person-Centered Planning			
The person-centered planning process is driven by the individual.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 4 B-C; p. 14 C; p. 18 A; Appendix A: p.29 I; Appendix A p. 35 I;	NMAC 8.314.6.7 H; NMAC 8.314.6.14 D; NMAC 8.314.6.15; NMAC 8.314.6.15 B; NMAC 8.314.6.15 G (3); NMAC 8.314.6.17
Includes people chosen by the individual.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 18 A, B	NMAC 8.314.6.17 A (2)
Provides necessary information and support to the individual to ensure that the individual directs the process to the maximum extent possible.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 14 -15; p. 18 A; Appendix A: p. 5, 10-11	NMAC 8.314.6.10 A; NMAC 8.314.6.15 B-D NMAC 8.314.6.17;
Is timely and occurs at times/locations of convenience to the individual.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	Appendix A: p. 5, 10-11	NMAC 8.314.6.17 A
Reflects cultural considerations/uses plain language.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 5; Appendix A p. 59	NMAC 8.314.6.15 G (1)(h)
Includes strategies for solving resolutions.	Appendix D, Appendix F	p. 5, 20	NMAC 8.314.6.22

CMS Rule	Approved Waiver NM.0448	Service Standards 02.2012	NMAC 8.314.6
Offers choices to the individual regarding services and supports the individual receives and from whom.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 4, B-C	NMAC 8.314.6.7 H; NMAC 8.314.6.14 D; NMAC 8.314.6.15; NMAC 8.314.6.15 B; NMAC 8.314.6.15 G (3); NMAC 8.314.6.17 (2)
Provides methods to request updates.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 15; Appendix A: p. 14	NMAC 8.314.6.17 F
Conducts to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 11, 18-20, Appendix B	NMAC 8.314.6.17; NMAC 8.314.6.15 C
Identifies the strength, preferences, needs (clinical and support), and desired outcomes of the individual.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 11, 18-20, Appendix B	NMAC 8.314.6.17; NMAC 8.314.6.15 C
May include whether and what services are self-directed.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 11, 18-20, Appendix B	NMAC 8.314.6.15 G
Sub-category Written Plan Reflects			
Setting is chosen by the individual and is integrated, and supports full access to the greater community.	Appendix C: C1-C3: Case Management; Appendix D, Appendix E	p. 11, 18-20, Appendix B	NMAC 8.314.6.17; NMAC 8.314.6.15 C
Opportunities to seek employment and work in a competitive integrated setting.	Appendix C: Employment Supports; Appendix E -1: Participant Direction of Services	Appendix A: p 35-41	NMAC 8.314.6.15 F (2)
Opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Application: 2. Brief Waiver Description; Appendix C; Appendix E -1: Participant Direction of Services	p. 4, B-C; 7; Appendix A: p 35-41	NMAC 8.314.6.15 F (2); NMAC 8.314.6.9 A

CMS Rule	Approved Waiver NM.0448	Service Standards 02.2012	NMAC 8.314.6
Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, health care and wellness, education, and others.	Appendix C: Employment Supports; Appendix E -1: Participant Direction of Services	p. 11, 18-20, Appendix B	NMAC 8.314.6.17; NMAC 8.314.6.15 C
Includes risk factors and plans to minimize them.	Appendix F; Appendix G	p. 15; Appendix A p.12	NMAC 8.314.6.14 E; NMAC 8.314.6.17 A (3)(h); NMAC 8.314.6.17 F; NMAC 8.314.6.15 (3)
Distributed to the individual and others involved in the plan.	Appendix D	Appendix A	NMAC 8.314.6.15 D(1)(d)
Includes purchase/control of self-directed services.	Appendix D; Appendix E-1	p. 11, 18-20, Appendix B	NMAC 8.314.6.17; NMAC 8.314.6.15 C
Excludes unnecessary or inappropriate services and supports.	Not applicable	p. 22	NMAC 8.314.6.16
Sub-category Assess Waiver And State Plan Service Definitions			
Case management	Appendix C	Appendix A: p. 5	NMAC 8.314.6.15 C
Personal plan facilitation	Appendix C	Appendix A: p. 50	NMAC 8.314.6.15 D
Homemaker/direct support services	Appendix C	Appendix A: P. 46	NMAC 8.314.6.15 E (1)
Home health aide services	Appendix C	Appendix A: p. 44	NMAC 8.314.6.15 E (2)
Community direct support	Appendix C	Appendix A: p. 26	NMAC 8.314.6.15 F (1)
Employment supports	Appendix C	Appendix A: p. 35	NMAC 8.314.6.15 F (2)
Customized community direct support	Appendix C	Appendix A: p. 29	NMAC 8.314.6.15 F (3)
In-home living supports	Appendix C	Appendix A: p. 31	NMAC 8.314.6.15 F (4)
Physical therapy	Appendix C	Appendix A: p. 64	NMAC 8.314.6.15 G (1)(a)
Occupational therapy	Appendix C	Appendix A: p. 64	NMAC 8.314.6.15 G (1)(b)
Speech and language pathology	Appendix C	Appendix A: p. 64	NMAC 8.314.6.15 G (1)(c)

CMS Rule	Approved Waiver NM.0448	Service Standards 02.2012	NMAC 8.314.6
Behavior support consultation	Appendix C	Appendix A: p. 63	NMAC 8.314.6.15 G (1)(d)
Nutritional counseling	Appendix C	Appendix A: p. 63	NMAC 8.314.6.15 G (1)(e)
Private duty nursing for adults	Appendix C	Appendix A: p. 53	NMAC 8.314.6.15 G (1)(f)
Acupuncture	Appendix C	Appendix A: p. 60	NMAC 8.314.6.15 G (2)(a)
Biofeedback	Appendix C	Appendix A: p. 60	NMAC 8.314.6.15 G (2)(b)
Chiropractic	Appendix C	Appendix A: p. 60	NMAC 8.314.6.15 G (2)(c)
Cognitive rehabilitation therapy	Appendix C	Appendix A: p. 61	NMAC 8.314.6.15 G (2)(d)
Hippotherapy	Appendix C	Appendix A: p. 61	NMAC 8.314.6.15 G (2)(e)
Massage therapy	Appendix C	Appendix A: p. 61	NMAC 8.314.6.15 G (2)(f)
Naprapathy	Appendix C	Appendix A: p. 61	NMAC 8.314.6.15 G (2)(g)
Native American healers	Appendix C	Appendix A: p. 62	NMAC 8.314.6.15 G (2)(h)
Play therapy	Appendix C	Appendix A: p. 62	NMAC 8.314.6.15 G (2)(i)
Transportation	Appendix C	Appendix A: p. 63	NMAC 8.314.6.15 H (1)
Emergency response service	Appendix C	Appendix A: p. 34	NMAC 8.314.6.15 H (2)
Respite	Appendix C	Appendix A: p. 56	NMAC 8.314.6.15 H (3)
Related goods	Appendix C	Appendix A: p. 55	NMAC 8.314.6.15 H (4)
Environmental modifications	Appendix C	Appendix A: p .42	NMAC 8.314.6.15 H (5)

Appendix B: Developmental Disabilities Waiver Assessment of Waiver, Service Standards, NMAC Rules for Residential Settings

CMS Rule	Approved Waiver	Service Standards	NMAC 8.314.5 or DOH Policy 7.26.5
Sub-category HCBS Setting Requirements			
Is integrated in and supports access to the greater community.		pg. 130, 150	
Provides opportunity to seek employment and work in competitive integrated setting, engage in community life, and control personal resources.	Appendix C - supported employment, customized community supports, residential livings supports	pg. 69 pg. 70 pg. 71 pg. 72 p-g 73	NMAC 8.314.5.13 B5 8.314.5.13.6
Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Appendix C - Customized Community Supports	pg. 73 2.b, 130,150	NMAC8.314.5.13.5
The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting.	Not Found	pg. 130, 150	NMAC 8.314.5.13 5
The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.	Not Found	Not Found	NMAC 8.314.5.13.5
Sub-Category HCB Setting Requirements			
Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.	Not Found	pg. 130, 135, 155	NMAC 8.314.5.13 B
Optimized individual initiative, autonomy, and independence in making life choices.	Not Found	pg. 74 C 3., 130	NMAC 8.314.5.13 B5

CMS Rule	Approved Waiver	Service Standards	NMAC 8.314.5 or DOH Policy 7.26.5
Facilitates individual choice regarding services and supports, and who provide them.	Not Found	pg. 55 v. a,b,c	Not Found
Sub-category Provider-Owned Or Controlled Residential Settings			
Specific unit/dwelling is owned, rented or occupied under legally enforceable agreement.	Not Found	page 135 and 136 H2 - 3, 134, 154	Not Found
Same responsibilities/protections from eviction as all tenants under landlord law of state, county, city or other designated entity.	Not Found	pg. 154 G 4-5 and pg. 155 I 2	Not Found
If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not Found	Not Found	Not Found
Each individual has privacy in their sleeping or living unit.	Not Found	pg. 135 8-11 pg154 #G12	Not Found
Units have lockable entrance doors, with the individuals and appropriate staff having keys to doors as needed.	Not Found	Not Found	Not Found
Individuals sharing units have a choice of roommates.	Not Found	page134 F-6 pg. 154 #G9 and pg. 166 #Gf	Not Found
Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not Found	page 154 #G 8-9, 134	Not Found
Individuals have freedom and support to control their schedules and activities.	Not Found	pg. 151 A 10	Not Found
Have access to food any time.	Not Found	Not Found	Not Found
Individuals may have visitors at any time.	Not Found	Not Found	Not Found

CMS Rule	Approved Waiver	Service Standards	NMAC 8.314.5 or DOH Policy 7.26.5
Setting is physically accessible to the individual.	Not Found	pg. 145 G pg. 166 G	Not Found
Sub-category Person-Centered Planning			
The person-centered planning process is driven by the individual.	Appendix C-CASE MGMT Appendix D-1-D	pg. 49 pg. 54 d	Service Plans 7.26.5.12 C 7.26.5.11 B1 7.26.5.8 A 7.26.5.9 A 7.26.5.14 C1
Includes people chosen by the individual.	Appendix D-1-D	pg. 53 D 1. b. i	Service Plans 7.26.5.7 A.2-D&H
Provides necessary information and support to the individual to ensure that the individual directs the process to the maximum extent possible.	Appendix C-CASE MGMT Appendix D-1-D	pg. 53 D 1. b. i	Service Plans 7.26.5.9 A & C
Is timely and occurs at times/locations of convenience to the individual.	Appendix D-I-H	pg. 50 j pg. 53 d pg. 57 3	Service Plans 7.26.5.11.2D 7.26.5.12 B & D
Reflects cultural considerations/uses plain language.	Not Found	53 D 1. b. l, 54	Service Plans 7.26.5.9.I
Includes strategies for solving disagreement.	Appendix F	Not Found	Not Found
Offers choices to the individual regarding services and supports the individual receives and from whom.	Appendices D-1-F & D-2-A	pg. 50 t pg. 55 v. a,b,c	Not Found
Provides method to request updates.	Appendix D-1-D	49-50, 56-58	Service Plans 7.26.5.12.G-H1-2
Conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare.	Appendix D-1-D	pg. 53d.b.iii	Service Plans 7.26.5.7 B-4, B 5-9& D 7.26.5.9.D 7.26.5.14.E.5 7.26.5.14.B
Identifies the strength, preferences, needs (clinical and support), and desired outcomes of the individual.	Not Found	pg. 53d.b.iii	Service Plans 7.26.5.7 B.3 & B.4 7.26.5.13.E-1 7.26.5.8 C

CMS Rule	Approved Waiver	Service Standards	NMAC 8.314.5 or DOH Policy 7.26.5
May include whether and what services are self-directed.	Not Found	Not Found	NMAC 8.314.6.10
Sub-category Written Plan Reflects			
Setting is chosen by the individual and is integrated in, and supports full access to the greater community.	Not Found	Not Found	Service Plans 7.26.5.8 D.
Opportunities to seek employment and work in competitive integrated settings.	Appendix C-Employment	pg. 50 h pg. 54 e.i, ii, iii,	NMAC 8.314.5.13 20E
Opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	Not Found	pg. 49-56	Service Plans 7.26.5.14 E 5
Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others.	Not Found	pg. 106 G, 135 14	Not Found
Includes risk factors and plans to minimize them.	Appendix D-2 pg. 116 A	pg. 50 o	Not Found
Is signed by all individuals and providers responsibly for its implementation and a copy of the plan must be provided to the individual and his/her representative.	Not Found	Not Found	Service Plans 7.26.14.H.1
Distributed to the individual and others involved in plan.	Not Found	pg. 64 L.2 &4	Service Plans 7.26.5.17.A & B 1&2
Includes purchase/control of self-directed services.	Not Found	Not Found	NMAC 8.314.6.10
Exclude unnecessary or inappropriate services and supports.	Not Found	pg. 49 pg. 50 h pg. 54 e.i, ii, iii,	Service Plans 7.26.5.9.H

CMS Rule	Approved Waiver	Service Standards	NMAC 8.314.5 or DOH Policy 7.26.5
Sub-category Assess Waiver And State Plan Service Definitions			
Case Management	Appendix C-1/C-3, page 50	11/2012, revised April 23, 2013-page 49	NMAC 8.314.5,
Residential Habilitation (Provider Owned Settings)	Not Found	Not Found	Not Found
Day Habilitation	Appendix C-1/C-3, page 56/57	Customized Community Supports:11/2012, revised April 23, 2013-page 84	NMAC 8.314.5,
Supported Employment	Appendix C-1/C-3, page 52	11/2012, revised April 23, 2013-Page 69	NMAC 8.314.5,

Appendix C: Developmental Disabilities Waiver Assessment of Waiver, Service Standards, NMAC Rules for Non-Residential Settings

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
<p>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i).</p>					
Does the setting provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual?	C1/C3 PG 55	Chapter 6 pg. 4	8.314.5.14.6 E-6-C		
Does the setting afford opportunities for individual schedules that focus on the needs and desires of an individual and an opportunity for individual growth?		Chapter 6 pg. 1	8.314.5.14 E-6		
Does the setting afford opportunities for individuals to have knowledge of or access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. outside of the setting, and who in the setting will facilitate and support access to these activities?	Not Found	Chapter 5 pg. 2,3,5 Chapter 6 pages 2,3,5,6, 7	8.314.5.14. E6 7.26.5.7(3)		
Does the setting allow individuals the freedom to move about inside and outside of the setting as opposed to one restricted room or area within the setting? For example, do individuals receive HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS?	Not Found	Not Found	8.314.5.14 E-7-C		Will address in Service Standards

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
Is the setting in the community/building located among other residential buildings, private businesses, retail businesses, restaurants, doctor's offices, etc. that facilitates integration with the greater community?	C1-C3 PG 53	Chapter 6 pg. 1	8.314.5.14.6		
Does the setting encourage visitors or other people from the greater community (aside from paid staff) to be present, and is there evidence that visitors have been present at regular frequencies? For example, do visitors greet/acknowledge individuals receiving services with familiarity when they encounter them, are visiting hours unrestricted, or does the setting otherwise encourage interaction with the public (for example, as customers in a pre-vocational setting)?	Not Found	Not Found	Not Found		Will address in Service Standards
Do employment settings provide individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times and leave and medical benefits with his/her employer to the same extent as individuals not receiving Medicaid funded HCBS?	C - C-3 PG 53	Chapter 5 pg. 2, 3	8.314.5.14.7 7.26.3.10(e)		Will address in Service Standards
In settings where money management is part of the service, does the setting facilitate the opportunity for individuals to have a checking or savings account or other means to have access to and control his/her funds. For example, is it clear that the individual is not required to sign over his/her paychecks to the provider?	Not Found C-1/C-3	Not Found	7.26.3.10(n) 1,2,3,4		Not applicable for the Scope of service for Chapter 5 Community Integrated Employment Services and Chapter 6 Customized Community Supports. This is addressed in other chapters as appropriate.

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
Does the setting provide individuals with contact information access to and training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location?	Not Found	CHAPTER 5 PAGE 3, 5 Chapter 6 pages 3,4,5	Not Found		
Alternatively where public transportation is limited, does the setting provide information about resources for the individual to access the broader community, including accessible transportation for individuals who use wheelchairs?	Not Found	CHAPTER 5 PAGE 3, 5 Chapter 6 pages 3,4,5	Not Found		
Does the setting assure that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services?	Not Found	Chapter 6 pages 3,5,6,7	Not Found		
Is the setting physically accessible, including access to bathrooms and break rooms, and are appliances, equipment, and tables/desks and chairs at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting? If obstructions are present, are there environmental adaptations such as a stair lift or elevator to ameliorate the obstructions?	Not Found	Not Found	Not Found		Will address in Service Standards
The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/441.710(a)(1)(ii)/441.530(a)(1)(ii).					
Does the setting reflect individual needs and preferences and do its policies ensure the informed choice of the individual?	C-1 C-3 PG 55	Chapter 6 pages 2,5,7	8.314.5.14(7) 8.134.5.E6		

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
Do the setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA?	C-1 C-3 PG 53	Chapter 6 pages 2,5,7	8.134.5 E 6 D		
Do the setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week (e.g. combine competitive employment with community habilitation)?	Not Found	Service Standards/ Resource Allocation	8.3.14.5		
The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)					
Is all information about individuals kept private? For instance, do paid staff/providers follow confidentiality policy/practices and does staff within the setting ensure that, for example, there are no posted schedules of individuals for PT, OT, medications, restricted diet, etc., in a general open area?	Not Found		7.26.3.10.(g)		Will address in Service Standards
Does the setting support individuals who need assistance with their personal appearance to appear as they desire, and is personal assistance, provided in private, as appropriate?	C-1 C-3	Chapter 5 pages 10, Chapter 6 pages 3,5,7	Not Found		Will address in Service Standards
Does the setting assure that staff interacts and communicate with individuals respectfully and in a manner in which the person would like to be addressed, while providing assistance during the regular course of daily activities?	Not Found	Not Found	Not Found		
Do setting requirements assure that staff does not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not	Not Found	Not Found	7.26.3.10 (p)		Will address in Service Standards

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
present?					
Does the setting policy require that the individual and/or representative grant informed consent prior to the use of restraints and/or restrictive interventions and document these interventions in the person-centered plan?	Not Found	Not Found	7.26.3.10 (R-Y)	HRC Policy	Will address in Service Standards
Does the setting policy ensure that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting and/or restrictive to the rights of every individual receiving support within the setting?	C-1 C-3	Chapter 5 pages 2,3,4 Chapter 6 pages 3,8	8.314.5.E-6		
Does the setting offer a secure place for the individual to store personal belongings?	Not Found	Not Found	Not Found		Will address in Service Standards
The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv).					
Are there gates, Velcro strips, locked doors, fences, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?	Not Found	Not Found	Not Found		Will address in Service Standards
Does the setting afford a variety of meaningful non-work activities that are responsive to the goals, interests, and needs of individuals? Does the physical environment support a variety of individual goals and needs (for example, does the setting provide indoor and outdoor gathering spaces; does the setting provide for larger group activities as well as solitary activities; does the setting provide for stimulating as well as calming activities)?	C1/C3	chapter 5 pages 1,2, also in chapter 6	Not Found		

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
Does the setting afford opportunities for individuals to choose with whom to do activities in the setting or outside the setting or are individuals assigned only to be with a certain group of people?		chapter 6 pages 2,3			
Does the setting allow for individuals to have a meal/snacks at the time and place of their choosing? For instance, does the setting afford individuals full access to a dining area with comfortable seating and opportunity to converse with others during break or meal times, afford dignity to the diners (i.e., individuals are treated age-appropriately and not required to wear bibs)? Does the setting provide for an alternative meal and/or private dining if requested by the individual? Do individuals' have access to food at any time consistent with individuals in similar and/or the same setting who are not receiving Medicaid-funded services and supports?	Not Found	Not Found	Not Found		Will address in Service Standards
Does the setting post or provide information on individual rights?	Not Found	chapter 6 page 3	Not Found		
Does the setting prohibit individuals from engaging in legal activities (ex. voting when 18 or older, consuming alcohol when 21 or older) in a manner different from individuals in similar and/or the same setting who are not receiving Medicaid funded services and supports?	Not Found	chapter 6 page 2	7.26.3.10 O-Y		
Does the setting afford the opportunity for tasks and activities matched to individuals' skills, abilities, and desires?		chapter 5 pg. 3	Not Found		
The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v).					

CMS Rule	Approved Waiver	Standards	Regulations	Policies	Comments
Was the individual provided a choice regarding the services, provider and settings and the opportunity to visit/understand the options?		chapter 4 page 2,7	8.314.5.13.5		
Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?	Not Found	chapter 4 page 7	7.26.3.10.Q		
Does the setting ensure individuals are supported to make decisions and exercise autonomy to the greatest extent possible? Does the setting afford the individual with the opportunity to participate in meaningful non-work activities in integrated community settings in a manner consistent with the individual's needs and preferences?	C1 C3 PG 55	chapter 5 page 1,2	8.314.5 E6-D		
Does setting policy ensure the individual is supported in developing plans to support her/his needs and preferences? Is setting staff knowledgeable about the capabilities, interests, preference, and needs of individuals?		chapter 5 and 6 page 1			
Does the setting post or provide information to individuals about how to make a request for additional HCBS, or changes to their current HCBS?		Chapter 4			

Appendix D: Mi Via HCBS Compliance by Setting Type

Federal HCB Settings Requirements	Settings: Consultant Services	
	Consultant Services	Personal Plan Facilitation
Is setting integrated in and supports full access to the greater community?	yes	yes
Is setting selected by the individual from among setting options?	yes	yes
Does service ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint?	yes	yes
Is autonomy and independence in making life choices optimized?	yes	yes
Is choice regarding services and who provides them facilitated?	yes	yes
Is the planning process driven by the individual?	yes	yes
Are providers chosen by the individual?	yes	yes
Are the service, times, and locations convenient to the individual?	yes	yes
Do the regulations and standards reflect cultural consideration and use plain language?	yes	yes
Are there protocols, strategies, or a complaint system available for participants to register grievances or complaints concerning the services they are receiving under the Mi Via program?	yes	yes

	Settings: Living Supports & Other Supports			
Federal HCB Settings Requirements	In-home Living Supports	Homemaker/ Direct support	Home Health Aide Service	Respite
Is setting integrated in and supports full access to the greater community?	yes	yes	yes	yes
Is setting selected by the individual from among setting options?	yes	yes	yes	yes
Does service ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint?	yes	yes	yes	yes
Is autonomy and independence in making life choices optimized?	yes	yes	yes	yes
Is choice regarding services and who provides them facilitated?	yes	yes	yes	yes
Is the planning process driven by the individual?	yes	yes	yes	yes
Are providers chosen by the individual?	yes	yes	yes	yes
Are the service, times and locations convenient to the individual?	yes	yes	yes	yes
Do the regulations and standards reflect cultural consideration and use plain language?	yes	yes	yes	yes
Are there protocols, strategies, or a complaint system available for participants to register grievances or complaints concerning the services they are receiving under the Mi Via program?	yes	yes	yes	yes

	Settings: Community Membership Supports		
<i>Federal HCB Settings Requirements</i>	Community Direct Supports	Customized Community Group Supports	Employment Supports
Is setting integrated in and supports full access to the greater community?	yes	no *	yes
Is setting selected by the individual from among setting options?	yes	yes	yes
Does service ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint?	yes	yes	yes
Is autonomy and independence in making life choices optimized?	yes	yes	yes
Is choice regarding services and who provides them facilitated?	yes	yes	yes
Is the planning process driven by the individual?	yes	yes	yes
Are providers chosen by the individual?	yes	yes	yes
Are the service, times and locations convenient to the individual?	yes	yes	yes
Do the regulations and standards reflect cultural consideration and use plain language?	yes	yes	yes
Are there protocols, strategies, or a complaint system available for participants to register grievances or complaints concerning the services they are receiving under the Mi Via program?	yes	yes	yes

	Setting: Health & Wellness Supports				
Federal HCB Settings Requirements	Behavioral Support	Nutritional Counseling	Private Duty Nurse	Specialized Therapies Services*	Therapies**
Is setting integrated in and supports full access to the greater community?	yes	yes	yes	yes	yes
Is setting selected by the individual from among setting options?	yes	yes	yes	yes	yes
Does service ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint?	yes	yes	yes	yes	yes
Is autonomy and independence in making life choices optimized?	yes	yes	yes	yes	yes
Is choice regarding services and who provides them facilitated?	yes	yes	yes	yes	yes
Is the planning process driven by the individual?	yes	yes	yes	yes	yes
Are providers chosen by the individual?	yes	yes	yes	yes	yes
Are the service, times and locations convenient to the individual?	yes	yes	yes	yes	yes
Do the regulations and standards reflect cultural consideration and use plain language?	yes	yes	yes	yes	yes
Are there protocols, strategies, or a complaint system available for participants to register grievances or complaints concerning the services they are receiving under the Mi Via program?	yes	yes	yes	yes	yes

**acupuncture, biofeedback, chiropractic, cognitive rehabilitation therapy, hippotherapy, massage therapy, naprapathy, Native American healing therapies, and play therapy*

***physical therapy, occupational therapy, speech language and pathology*

Appendix E: Developmental Disabilities Waiver HCBS Compliance by Setting

Developmental Disabilities Waiver	Settings: Living Supports		
	Family Living	Supported Living	Intense Medical Living
<i>Federal HCB Settings Requirements</i>			
Is setting integrated in and supports full access to the greater community?	yes	yes	yes
Is setting selected by the individual from among setting options?	yes	yes	yes
Does service ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint?	yes	yes	yes
Is autonomy and independence in making life choices optimized?	yes	yes	yes
Is choice regarding services and who provides them facilitated?	yes	yes	yes
Is the planning process driven by the individual?	yes	yes	yes
Are providers chosen by the individual?	yes	yes	yes
Are the service, times and locations convenient to the individual?	yes	yes	yes
Do the regulations and standards reflect cultural consideration and use plain language?	yes	yes	yes
Are there protocols, strategies, or a complaint system available for participants to register grievances or complaints concerning the services they are receiving under the Developmental Disabilities Waiver program?	yes	yes	yes

Appendix F: Mi Via Waiver Transition Plan

The following is the link to the Mi Via Waiver transition plan:

<http://www.hsd.state.nm.us/LookingForInformation/mi-via.aspx>.

Appendix G: Developmental Disabilities Waiver Transition Plan

The following is the link to the Developmental Disabilities Waiver transition plan:

<http://www.hsd.state.nm.us/uploads/files/Public%20Information/Public%20Notices,%20Proposed%20Rule%20and%20Waiver%20Changes/Transition%20Plan.pdf>.

Appendix H: Assessment of Centennial Care Contract, MCO Policy Manual, STCs and NMAC Rules

CMS Rule	Centennial Care Contract	Special Terms & Conditions (STC)	Regulations NMAC	MCO Policy Manual (ABCB)	MCO Policy Manual (SDCB)
Sub Category HCBS Setting Requirements					
Is integrated in and supports access to the greater community.	NOT FOUND	STC X #67, #69, #70. Att B and C	NOT FOUND	section 8 ABCB, pg 57	Section 9 SDCB, pg 145
Provides opportunity to seek employment and work in competitive integrated setting, engage in community life, and control personal resources.	NOT FOUND	STC X #67-- #70, Att B	8.308.12.13 F, 8.308.12.18 E	Section 8 ABCB, pgs 76-81	Section 9 SDCB, pgs 173-179
Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community based services.	4.2.6	STC X #67-- #70, Att B	NOT FOUND	NOT FOUND	NOT FOUND
The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting.	NOT FOUND	STC X #67-- #70, Att B	NOT FOUND	Section 8 ABCB, pgs 61-66	NOT FOUND
The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	NOT FOUND	STC X #67-- #70, Att B	NOT FOUND	Section 8 ABCB, pgs 61-66	NOT FOUND
Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.	NOT FOUND	STC X #70, Att C	NMAC 8.308.8.11 B	Section 8 ABCB, pgs 61-66	Section 9 SDCB
Optimizes individual initiative, autonomy, and independence in making life choices.	NOT FOUND	STC X #67-- #70, Att B	NMAC 8.308.8.11 B	Section 8 ABCB, pgs 61-66	Section 9 SDCB
Facilitates individual choice regarding services and supports, and who provides them.	4.6	STC X #67-- #70, Att B	NMAC 8.308.8.11 B	Section 8 ABCB, pgs 61-66	Section 9 SDCB

CMS Rule	Centennial Care Contract	Special Terms & Conditions (STC)	Regulations NMAC	MCO Policy Manual (ABCB)	MCO Policy Manual (SDCB)
Sub Category Provider-Owned or Controlled Residential Settings					
Specific unit/dwelling is owned, rented or occupied under legally enforceable agreement.	NOT FOUND	NOT FOUND	7.8.2.20 A	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Same responsibilities/ protections from eviction as all tenants under landlord law of state, county, city or other designated entity.	NOT FOUND	NOT FOUND	7.8.2.20 A	NOT FOUND	N/A
If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law per DDW transition plan: tenant laws apply to the state of New Mexico.	N/A	N/A	N/A	N/A	N/A
Each individual has privacy in their sleeping or living unit.	NOT FOUND	STC X #70	7.8.2.33.D	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Units have lockable entrance doors, with the individuals and appropriate staff having keys to doors as needed.	NOT FOUND	STC X #70	7.8.2.49	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Individuals sharing units have a choice of roommates.	NOT FOUND	STC X #70	NOT FOUND	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	NOT FOUND	STC X #70	7.8.2.54	Section 8 ABCB (Assisted Living), pgs 61-66	N/A

CMS Rule	Centennial Care Contract	Special Terms & Conditions (STC)	Regulations NMAC	MCO Policy Manual (ABCB)	MCO Policy Manual (SDCB)
Individuals have the freedom and support to control their schedules and activities.	NOT FOUND	STC X #70	7.8.2.27, 7.8.2.33	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Individuals have access to food at any time.	NOT FOUND	STC X #70	7.8.2.36	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Individuals may have visitors at any time.	NOT FOUND	STC X #70	7.8.2.33 D	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Setting is physically accessible to the individual.	NOT FOUND	STC X #70	7.8.2.41, 7.8.2.54	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Sub Category Person Centered Planning					
The person-centered planning process is driven by the individual.	4.4.9	STC X #67, #68	8.308.8.11 B, 8.308.10.9	Section 4 Care Coordination, pg 28, 2.B.a.	Section 4 Care Coordination, pg 28, 2.B.a.
Includes people chosen by the individual.	4.4.9	STC X #67	8.308.8.11 B, 8.308.10.9 A(1) and K(3)	Section 4 Care Coordination, pg 28, 2.B.c.	Section 4 Care Coordination, pg 28, 2.B.c.
Provides necessary information and support to the individual to ensure that the individual directs the process to the maximum extent possible.	4.4.9	STC X #67, #68	8.308.8.11 B	Section 4 Care Coordination, pg 28, 2.B.a.	Section 4 Care Coordination, pg 28, 2.B.a.
Is timely and occurs at times/locations of convenience to the individual.	4.4.9	STC X #67	8.308.10.9 K(1)	Section 4 Care Coordination, pg 21 and pg 28, 2.B.d.	Section 4 Care Coordination, pg 21 and pg 28, 2.B.d.
Reflects cultural considerations/uses plain language.	4.4.9	STC X #67, #68	8.308.8.10 A, 8.308.8.11 B, 8.308.10.9. A	Section 3 Member Education, pg 10	Section 3 Member Education, pg 10
Includes strategies for solving disagreement.	4.16	STC X #69	8.308.15, 8.308.8.11 B	Section 16 Fair Hearings	Section 16 Fair Hearings

CMS Rule	Centennial Care Contract	Special Terms & Conditions (STC)	Regulations NMAC	MCO Policy Manual (ABCB)	MCO Policy Manual (SDCB)
Offers choices to the individual regarding services and supports that the individual receives and from whom.	4.4.9	STC X #67, #68	8.308.8.11 B	Section 4 Care Coordination, pg 28, 2.B.f.	Section 4 Care Coordination, pg 28, 2.B.f.
Provides method to request updates.	4.4.9	STC X #67, #68	8.308.8.11 B	Section 4 Care Coordination, pg 30, 2.D	Section 4 Care Coordination, pg 30, 2.D
Conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare.	4.4.9	STC X #67, #68	8.308.10.9	Section 8 ABCB, pg 57	Section 9 SDCB, pg 145
Identifies the strengths, preferences, needs (clinical and support), and desired outcomes of the individual.	4.4.9	STC X #67	8.308.12.7 F	Section 4 Care Coordination, pg 29, 2.C.f/g	Section 4 Care Coordination, pg 29, 2.C.f/g
May include whether and what services are self-directed.	4.4.11.2.3	STC X #69	8.308.12.7 N, 8.308.12.13 I, 8.308.12.15, 8.308.12.18, 8.308.12.20	Section 8 ABCB, Personal Care Svcs/ Consumer-Directed, pg 88	Section 9 SDCB
Sub Category Written Plan Reflects					
Setting is chosen by the individual and is integrated in and supports full access to the greater community.	4.4.9	STC X #70	NOT FOUND	Section 8 ABCB, pg 57	Section 9 SDCB, pg 145
Opportunities to seek employment and work in competitive integrated settings.	4.4.9	Att B	8.308.12.13 F, 8.308.12.18 E	Section 8 ABCB, pgs 76-81	Section 9 SDCB, pgs 173-179
Opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.	4.4.9	NOT FOUND	NOT FOUND	NOT FOUND	NOT FOUND
Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others.	4.4.9	NOT FOUND	NOT FOUND	NOT FOUND	NOT FOUND

CMS Rule	Centennial Care Contract	Special Terms & Conditions (STC)	Regulations NMAC	MCO Policy Manual (ABCB)	MCO Policy Manual (SDCB)
Includes risk factors and plans to minimize them.	4.4.5.5.3, 4.4.11.2.4	STC X #67	8.308.10.9 B	Section 4 Care Coordination, pg 23, 3	Section 4 Care Coordination, pg 23, 3
Is signed by all individuals and providers responsible for its implementation and a copy of the plan must be provided to the individual and his/her representative.	4.4.9.7, 4.4.9.8	NOT FOUND	8.308.8.11 B	Section 4 Care Coordination, pg 28, 2.B.a.	Section 4 Care Coordination, pg 28, 2.B.a.
Distributed to the individual and others involved in plan.	4.4.9.7, 4.4.9.8	NOT FOUND	8.308.8.11 B	Section 4 Care Coordination, pg 28, 2.B.b.	Section 4 Care Coordination, pg 28, 2.B.b.
Includes purchase/control of self-directed services.	4.6.1	STC X #67	8.308.12.15	N/A	Section 9 SDCB
Excludes unnecessary or inappropriate services and supports.	4.4.10.1.10	NOT FOUND	8.308.12.14, 8.308.12.19	Section 4 Care Coordination, pg 29	Section 4 Care Coordination, pg 29
Sub Category Assess Waiver And State Plan Service Definitions					
Case Management	NOT FOUND	STC IX #47	8.308.10	Section 4 Care Coordination	Section 4 Care Coordination
Residential Habilitation (Provider Owned Settings)	NOT FOUND	Att B	8.308.12.13 B	Section 8 ABCB (Assisted Living), pgs 61-66	N/A
Day Habilitation	NOT FOUND	Att B	8.308.12.13 A, 8.308.12.18 B	Section 8 ABCB (Adult Day Health Svcs), pgs 58-60	Section 9 SDCB (Customized Community Spts), pgs 171-172
Supported Employment	NOT FOUND	Att B	8.308.12.13 F, 8.308.12.18 D	Section 8 ABCB, pgs 76-81	Section 9 SDCB, pgs 173-179

Appendix I: Summary of Comments Concerning New Mexico’s Statewide Transition Plan

	Public Comment Received	State of New Mexico’s Response
1.	An MCO commenter asked if there is a HSD/MCO workgroup to address the Transition Plan timeline provided to CMS and whether it is the Health Care Transition Task Force Meeting.	HSD will consider this request to establish an HSD/MCO workgroup for MCO provider trainings.
2.	An MCO commenter requested the names of the providers that will be sent the Provider Assessment Survey and requested confirmation that the Provider Assessment Survey will be limited to CMS exploratory questions and requested a copy of those questions.	<p>For the names of the providers who will receive the Provider Assessment Survey, please refer to the Agency-Based Community Based (ABCB) provider list which HSD previously sent to each MCO. For Self-Directed Community Benefits (SDCB), the providers are not Medicaid-approved providers but are direct employees of HCBS participants, therefore, there is no established “provider list” for this population. The Provider Assessment Survey addresses the points outlined in the CMS exploratory questions, and the CMS Final Rule. The CMS exploratory questions for Residential settings and Non-Residential settings can be found on the CMS website.</p> <p>http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/exploratory-questions-re-settings-characteristics.pdf</p> <p>http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/exploratory-questions-non-residential.pdf</p>
3.	<p>An MCO commenter raised concerns with the State’s plan to add some questions to the existing CAHPS to ask about care coordination. Their concerns about using the CAHPS survey in this way include:</p> <p>(a) CAHPS surveys only our Medicaid only members. The large percentage of those members receiving care coordination are dual members and consequently are excluded from the CAHPS survey. By the CAHPS survey methodology of a random sample of the membership, the percentage of members receiving care coordination in the CAHPS sample will only be at best 15%.</p> <p>(b) Care Coordination in the CAHPS survey refers to the coordination efforts of the provider, not the MCO. Using the same term, especially since the large majority of CAHPS respondents will not have care coordination, will give unclear results.</p> <p>(c) Number of additional questions allowed with</p>	<p>HSD will develop new language for the Transition Plan (on page 17), to include the population which is not “Medicaid-only” thus surveying the entire affected HCBS membership to address the concern raised about the CAHPS survey only reaching Medicaid only members.</p> <p>HSD will collaborate with the MCOs to develop detailed and appropriate member survey questions to ensure quality assurance is upheld.</p>

	Public Comment Received	State of New Mexico's Response
	<p>CAHPS are limited. We understand the goal of not burdening members with surveys but respectfully suggest that a separate survey, along the lines of the Service Coordination survey in CoLTS, would give the State a much more accurate picture and better data from which to make course corrections in compliance with CMS.</p>	
4.	<p>An MCO commenter asked where to locate the Employment Support Services new standards.</p>	<p>The Employment Support Services are located in the MCO policy manual (8/14/2014). Please see Section 8, pg. 76 for the ABCB service description. Please see Section 9, pg. 173 for the SDCB service description.</p> <p>The Transition Plan contains a typo error on page 11. HSD reviewed version 8/14/2014 of the MCO policy manual, not version 1/2014, for the assessment outlined in Appendix H. HSD will correct the Transition Plan with the correct MCO policy manual.</p>
5.	<p>An MCO commenter requested more time between the policy revisions to the Policy Manual and provider training, and schedule the provider training before the survey. The Policy Manual revision is scheduled to complete 7/1/15. This is the same as provider training (7/1/15) and after the provider survey (5/20/15).</p>	<p>HSD has revised the timeline for conducting trainings based on this comment.</p>
6.	<p>An MCO commenter requested that as a best practice, the training by the MCO in 2016 should be organized in a similar fashion to the NFLOC HNF/LNF training. The MCOs equally participated with assigned portions of the training and conducted training together.</p>	<p>HSD accepts this recommendation and will present the suggestion to the HSD/MCO workgroup once it is formed.</p>
7.	<p>An MCO commenter pointed out that HSD reviewed version 1/2014 of the MCO policy manual as stated in the Transition Plan (page 12) but that there is a newer version of the MCO policy manual dated March 3, 2015, which HSD did not assess. There is concern the citations in the chart at Appendix H are to parts of the MCO policy manual that do not appear to support HSD's conclusion that the policy manual is in compliance with the HCBS rule, and HSD gives no further explanation, aside from the chart, supporting its conclusions.</p>	<p>The Transition Plan contains a typo error on page 12. HSD reviewed version 8/14/2014 of the MCO policy manual, not version 1/2014, for the assessment outlined in Appendix H. HSD will update the Transition Plan with the correct MCO policy manual date.</p>
8.	<p>A commenter reviewed HSD's Review of State Regulations and commented on the following:</p> <ul style="list-style-type: none"> (a) Residents of Assisted Living Facilities do not have the same rights as tenants under landlord-tenant law. (b) Lockable entrance doors with individuals having keys, and staff having keys as needed. (c) Freedom to furnish and decorate sleeping or other living units. (d) Freedom and support to control schedules and activities. 	<p>The MCO policy manual is intended as a supplement which provides detailed clarification to the NMAC. HSD will amend the Centennial Care MCO Policy Manual to add language to address the following requirements in a comprehensive and complete manner:</p> <ul style="list-style-type: none"> (a) HCBS participants shall receive the same responsibilities and protections from eviction from their homes as all other tenants under landlord laws of state, city and county government entities. When

	Public Comment Received	State of New Mexico's Response
	<p>(e) Individual's access to food at any time.</p> <p>(f) Individual's rights to visitors at any time.</p>	<p>terminating the written agreement, a landlord must provide a 30-day notice to the HCBS participant.</p> <p>(b) Sleeping or living units must have entrance doors lockable by the HCBS participant, with only appropriate staff having keys to doors, as needed.</p> <p>(c) HCBS participants shall have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. New Mexico's Transition Plan, Appendix H, contains a typo error; NMAC 7.8.2.24 should be 7.8.2.54; HSD/MAD/CCB will correct Appendix H.</p> <p>(d) HCBS participants shall have the freedom and support to control their own schedules and activities.</p> <p>(e) HCBS participants shall have access to food at any time.</p> <p>(f) HCBS participants shall be able to have visitors of their choosing at any time.</p>
9.	<p>A commenter stated in that the Key Provisions of the HCBS Final Rule for Person-Centered Service Plan/Planning Table 2 in the Transition Plan (page 13) is HSD's summary of Centennial Care CCP process/planning compliance with key provisions of the person-centered planning requirements of the HCBS rule. However, the conclusions in Table 2 are contradicted by HSD's own findings related to its assessment of the Centennial Care Contracts, STCs, regulations and MCO policy manual.</p> <p>(a) HSD found that state regulations do not contain language that the "setting is chosen by the individual and is integrated in, and supports full access to the greater community."</p> <p>(b) HSD also found that the requirement that HCBS recipients have the "opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS" is not found in the regulations or MCO policy manual.</p> <p>(c) HSD found that the regulations and MCO policy manual do not include the requirement that the written plan include individually identified goals.</p>	<p>The MCO policy manual is intended as a supplement which provides detailed clarification to the NMAC. HSD will amend the Centennial Care MCO Policy Manual to add language to address the following requirements in a comprehensive and complete manner:</p> <p>(a) HCBS participants shall have a choice in their residential setting, and the setting shall be integrated in and shall support full access to the greater community.</p> <p>(b) HCBS participants shall have the opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.</p> <p>(c) The written plan for services must include i) individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others; and ii) the opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.</p>
10.	<p>A commenter requested more detail was needed on validating provider self-assessment. The provider self-assessment is not a reliable means to evaluate whether the residential and non-residential settings comply with the HCBS rules. The providers have a financial interest in the</p>	<p>New Mexico's Transition Plan includes many steps beyond the provider self-assessment process. The self-assessment to be completed by providers by June 24, 2015 will allow for provider buy-in and takes into account their input in this process and will help give the State</p>

	Public Comment Received	State of New Mexico's Response
	<p>outcome of the assessment. HSD proposes to perform 'validity checks' on the provider responses, but the plan fails to detail what the validity checks will involve. How will HSD verify the accuracy of the providers' responses?</p>	<p>direction for training needs. The State does not intend to use the self-assessment results to identify only specific providers in need of training. The State will train all affected providers, regardless of the survey outcomes.</p> <p>Based on this public input, HSD removed the Centennial Care section in the Transition Plan outlining the validity checks on a subset statistically valid sample of provider agency responses to the provider self-assessment survey.</p>
11.	<p>A commenter pointed out that the participant/membership assessment was needed earlier in transition process if HSD does not intend to survey beneficiaries until 2017, well into the five year transition process.</p>	<p>HSD does not intend to revise the timeline for conducting participant surveys at this time; however, this recommendation will be discussed with the MCOs for feasibility.</p> <p>Based on this public input, HSD revised the Transition Plan to add to the timeline (pg. 10): "Centennial Care Demonstration: Remediation Activities following Participant Survey."</p>
12.	<p>A commenter provided the following comments on the Remediation section of the Transition Plan:</p> <ul style="list-style-type: none"> (a) HSD's timetable for correcting deficiencies in CC contract, STCs, regulations, and policy manual does not even include action items for all deficiencies HSD found. (b) Include DOH in assessment, remediation, and monitoring of ALFs. 	<p>The MCO policy manual is intended as a supplement which provides detailed clarification to the NMAC. HSD will amend the Centennial Care MCO Policy Manual to add language to address the following requirements in a comprehensive and complete manner:</p> <ul style="list-style-type: none"> (a) HCBS participants shall have a choice in their residential setting, and the setting shall be integrated in and shall support full access to the greater community. (b) HCBS participants shall have the opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS. (c) The written plan for services must include <ul style="list-style-type: none"> i) individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others; and ii) the opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS. <p>HSD will collaborate with NM DOH to ensure Assisted Living Facility licensure requirements fully comply with the CMS requirements, and that ongoing monitoring efforts are established.</p> <p>Based on this public input, HSD revised the</p>

	Public Comment Received	State of New Mexico's Response
		Transition Plan to incorporate NM DOH collaboration.
13.	A commenter pointed out that under the Transition Plan proposed by HSD, the DD Waiver service standards will be revised to comply with the CMS Rule. The state will train DD Waiver service providers on the use of these new service standards based largely upon self-assessment survey results completed by those providers. Under the amendment proposed by HSD, training of providers under the Centennial Care Demonstration will be conducted in the same manner. The state should take preliminary steps beyond analyzing self-assessments to ensure that providers are correctly utilizing the new service standards.	New Mexico's Transition Plan includes many steps beyond the provider self-assessment process. The self-assessment to be completed by providers by June 24, 2015 will allow for provider buy-in and takes into account their input in this process. HSD does not intend to use the self-assessment results to identify only specific providers in need of training. The State will train all affected providers, regardless of the survey outcomes.
14.	A commenter pointed out the policies outlined in the current DD Waiver service standards and the regulations governing the waiver programs often comply with the law and CMS requirements. However, in practice, these policies are often incorrectly applied by service providers in the community. As a result, training and clear direction for service providers is vital to ensure compliance with present and future rules.	The provider self-assessment and state on-site validity audit will confirm where providers are not in compliance with service standards and other written material requiring person centered planning and fully integrated community settings. The state will provide intensive training of providers leading up the implementation of new DD Waiver service standards. Providers who are not in compliance will be given intensive training and technical assistance to come into compliance.
15.	A commenter noted that as part of the Transition Plan proposed by HSD, New Mexico has assured CMS that they are already in compliance with a majority of the policies dictated by the new rules. However, this commenter notes a number of ways in which our state is not in compliance with CMS requirements.	HSD will amend the Centennial Care MCO Policy Manual by 10/01/15 to add language to address the following requirements in a comprehensive and complete manner: (a) HCBS participants shall have access to integrated residential settings, employment, and general community life, to the same degree as those not receiving Home and Community Based Medicaid services. (b) The written plan for services must include a specific listing of risk factors for the individual, and a plan to minimize the risks. (c) The written plan for services must include i) individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others; and ii) the opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.
16.	A commenter noted that the language of a number of the regulations cited by HSD to demonstrate compliance with CMS mandates do not appear to	HSD will amend the Centennial Care MCO Policy Manual by 10/01/15 to add language to address the following requirements in a

	Public Comment Received	State of New Mexico's Response
	<p>specifically conform to those mandates. These regulations should be amended to ensure that all parties in the Medicaid system have a full and accurate understanding of their rights and responsibilities.</p>	<p>comprehensive and complete manner:</p> <ul style="list-style-type: none"> (a) HCBS participants shall receive the same responsibilities and protections from eviction from their homes as all other tenants under landlord laws of state, city and county government entities. (b) Sleeping or living units must have entrance doors lockable by the HCBS participant, with only appropriate staff having keys to doors, as needed. (c) HCBS participants shall have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. New Mexico's Transition Plan, Appendix H, contains a typo error; NMAC 7.8.2.24 should be 7.8.2.54; HSD/MAD/CCB will correct Appendix H. (d) HCBS participants shall have access to food at any time. (e) HCBS participants shall lead the person-centered planning process where possible.
17.	<p>A commenter shared that if it is the intention of CMS or the HSD to include assisted living facilities (ALFs) or "memory care communities" as residential settings for Centennial Care clients, then we believe the standards seem more applicable for the physically-disabled client rather than a frail senior or dementia population. Modifications stated throughout the Transition Plan are not always appropriate for advanced dementia care when a resident must have a key to the entrance of the residence setting along with a key to their room, or to come and go as they please unattended. "Informed consent" from an individual is not always realistic with the dementia resident depending on where the resident is in the dementia process. There is no indication in the Plan that a family member or power of attorney (POA) could sign for a resident unable to sign for themselves. A dementia resident can't always dictate the directional focus of their care or verbally identify where they want to live.</p>	<p>HSD will consult with CMS for guidance on whether the CMS Final Rule includes "memory care communities" as residential settings for Centennial Care HCBS members.</p>
18.	<p>A commenter further noted that it is not always feasible for dementia or cognitively impaired residents to have individual access to food at all times, choose their own roommate, or choose their own physician, etc. We did not see any mention of "dementia" or "memory care" secure ALF units as a setting. If elderly Medicaid residents with dementia are not accommodated in the Plan, this will have the effect of limiting their access to care in a setting most appropriate for their wants and needs. We hope these specialized residence settings will not be excluded. If they are excluded, this hampers the "aging in place" model that many</p>	<p>HSD will consult with CMS for guidance on whether the CMS Final Rule includes "dementia or memory care secure ALF units" as residential settings for the Centennial Care HCBS members.</p>

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	<p>ALFs embrace, affecting residents that may then be placed in a more secure setting after being in the more independent ALF environment. Any kind of change is difficult in the world of a dementia resident and transition to another community could prove to be very detrimental to this population of residents. If the State needs further interpretation or suggestions along the lines of "aging in place," we would be more than happy to assist in any way we can.</p>	
19.	<p>A commenter pointed out that under the appendices to the 3/24/15 HCBS transition plan document, Appendix H: Assessment of Centennial Care Contract, MCO Policy Manual, STCs and NMAC Rules, there are many "not found" responses under the Centennial Care Contract boxes. Members are concerned about the HSD's possible "further" need to modify its tasks and what those modifications may or may not include. So many of the provisions in the plan were not discussed in the MCO contracts and it appears there may need to be further response added to the "not found" box items. This would provide clarification for providers. In the meantime, we are concerned that further changes may be required and we would like to be involved in future discussion if warranted.</p>	<p>HSD intends to revise the MCO Policy Manual by 10/01/15 to address the "not found" responses in the Transition Plan Appendix H, in order to ensure full compliance with the CMS Final Rule.</p>