BACKGROUND

On January 16, 2014, the Centers for Medicare and Medicaid (CMS) published Final Rule 2249-F/2296-F which addresses several sections of the Social Security Act and makes changes to the 1915(c) Home and Community-Based Services (HCBS) waiver program. It provides states the option to combine existing waiver targeting groups. The rule also establishes requirements for HCBS settings under the 1915(c), 1915(i) and 1915(k) Medicaid authorities, and person-centered planning requirements for Medicaid HCBS participants under 1915(c) and 1915(i). In addition, it clarifies the timing of amendments and public input requirements when states propose modifications to HCBS waiver programs.

The final rule requires that all HCBS settings meet certain qualifications\(^1\), including that the setting:

- Is integrated 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;
- Is selected 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;
- Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimizes autonomy and independence in making life choices, and
- Facilitates choice regarding services and who provides them.

The person-centered planning process was developed to ensure that individuals receiving long-term services and supports through HCBS programs under Medicaid waivers have full access to their community and to assure the plan addresses the health and long-term services and supports needs that are reflected in the participant's preferences and goals. The resulting person-centered plan will assist the participant in achieving personally defined outcomes and ensures that waiver services are provided in qualified HCBS settings.

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 was originally designed and developed with person-centered planning at its core which is reflected in our current 1915 (c) HCBS Waiver (NM.0448),

Mi Via Service Standards, and the New Mexico Administrative Code (NMAC) at 8.314.6 *Mi Via HCBS Waiver*. As such, Mi Via Service and Support Plans (SSPs) are developed through the person-centered planning process which guide the participant’s selection of services that achieve personally defined outcomes in the most integrated community setting. The State will submit its request to renew the Mi Via waiver for another 5-year waiver period from October 1, 2014 through September 30, 2019. Renewal for the waiver must include the state’s plans for implementing the Final Rule 2249-F/2296-F.

**MI VIA ASSESSMENTS**

The Human Services Department/Medical Assistance Division (HSD/MAD) along with the Department of Health/Developmental Disabilities Division (DOH/DDSD) completed an initial assessment of the Mi Via Home and Community-Based Services (HCBS) settings by analyzing our current 1915 (c) HCBS waiver (NM. 0448), Mi Via Service Standards, and NMAC 8.314.6 (*See Table 1*). Secondly, the Departments assessed the Mi Via person-centered planning process (*See Table 2*). Thirdly, the Departments completed a detailed assessment of Mi Via service settings utilizing CMS-defined qualifications (*See Table 3, a-d*).

**PERSON-CENTERED PLANNING**

Mi Via recognizes the essential role of participants in planning and purchasing services and supports. Consultants and Support Guides, who are well-versed in the philosophy and practice of self-direction, assist participants in the person-centered planning process during the development of the SSP. The Mi Via philosophy of self-direction reflects a strong commitment throughout the planning process to being sensitive to the person’s preferences, responsibilities and arrangements when reducing any identified risks.

The State’s assessment of the person-centered process evaluated the key provisions that must be reflected in the participant’s plan. The SSP template, used to create the participant’s SSP, meets the CMS requirements for person-centered planning. The following key provisions\(^2\) are reflected in the Mi Via SSP.\(^3\)

- Individual’s strengths and preferences
- Clinical and support needs

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\(^3\) *Mi Via Self-Directed Waiver Program Service Standards. Appendix B: Service and Support Plan (SSP) Template.* New Mexico Department of Health. April 25, 2011
• 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
• Individualized backup plans and strategies when needed

HOME AND COMMUNITY-BASED SETTINGS

The State conducted its assessment of Mi Via services (which are provided in non-residential/non-institutional settings) to ensure compliance with CMS HCBS qualifications. The State, during its review of Mi Via waiver services and settings, determined that the Customized Community Group Supports (CCGS) service requires modifications to achieve compliance with the federal HCBS settings requirements.

As of August 2014, approximately 80 Mi Via participants have CCGS on their SSP. CCGS services, which are non-residential/non-institutional services, are designed to offer Mi Via participants flexible supports in integrated community settings. These supports can include participation in community day programs and centers that offer functional meaningful activities that assist with acquisition, retention, or improvement in self-help, socialization and adaptive skills. CCGS may include Adult Day Habilitation, Adult Day Health, and other adult day support models.

COMPLIANCE ACTIVITIES AND TIMELINES

The State expects to achieve compliance with the new Federal Rule by July 1, 2015 by addressing the following three (3) areas for CCGS:

1. Expand 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. Revised Service Standards will be released in March 2015.

2. Revise CCGS provider packets to include an attestation that the services and supports provided will be delivered in a community-based integrated setting. Revised CCGS provider packets will be implemented in March 2015. Current CCGS providers will be required to submit a completed attestation to ensure compliance with the revised standards. The State will send a notice to each CCGS enrolled provider to submit the required attestation. In addition, the State will inform participants and Consultants of the attestation via the Mi Via newsletter.
3. Train Consultants on the new CCGS service standards and monitor implementation through SSP development and the Participant Quarterly Review Form. DOH/DDSD will train Consultants beginning March 1, 2015.

Moving forward from submission of the Mi Via waiver renewal, the State will continue to monitor compliance with federal HCB settings requirements through:

- State oversight and monitoring of SSP development by Consultants.
- State oversight and monitoring of Mi Via service definitions and service standards.
- Verification of the CCGS attestation in provider enrollment packets.

At the time of the development of this Transition Plan, CMS had not released guidance to states for evaluating HCB non-residential settings. Should there be a need to make further changes to this Transition Plan as a result of additional CMS guidance, the State will initiate public input to inform and invite feedback from the public.