

**South Carolina Department of Health and Human Services**  
**HIV/AIDS Waiver Transition Plan**  
**April 2015**

**Introduction**

The Center for Medicare and Medicaid Services (CMS) issued a final rule on Home and Community Based Services (HCBS) establishing certain requirements for home and community based services that are provided through Medicaid waivers, like the HIV/AIDS Waiver. There are specific requirements for where home and community-based services are received which will be referred to as the “settings requirements.”

CMS requires that each state submit a “Transition Plan” for each waiver renewal or amendment. The Transition Plan outlines how the state will come into conformance and compliance with the HCBS Rule settings requirements. Once any waiver renewal or amendment is submitted to CMS with the waiver specific Transition Plan, the state must then submit, 120 days later, a “Statewide Transition Plan” that outlines how the state will come into conformance with the new requirements of the HCBS Rule. States must come into full compliance with HCBS Rule requirements by Mar. 17, 2019.

This is the Transition Plan for the HIV/AIDS Waiver Amendment. Per CMS requirements, this is available for the public to read and comment on before being submitted to CMS for review when the amendment is submitted.

The Transition Plan may change as the state goes through the process of coming into compliance with the HCBS Rule. If this plan undergoes any substantive changes after submission to CMS, the state will make it available again for public comment and input.

**Home and Community Based Settings Requirements**

CMS has listed the following as the requirements of home and community based settings. They must have the following qualities (per 42 CFR 441.301 (c)(4)):

- 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.
- 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. 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
- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

- 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.
- Facilitates individual choice regarding services and supports, and who provides them.

## **Communications and Outreach – Public Notice Process**

### **Initial Plan Development**

SCDHHS formed a workgroup to address and solicit input on how the state could come into compliance with the HCBS rule, including the HIV/AIDS waiver amendment. This group is composed of members from:

- SC Department of Health and Human Services
- SC Department of Mental Health
- SC Department of Disabilities and Special Needs
- SC Vocational Rehabilitation Department
- Advocacy groups:
  - AARP
  - Family Connections
  - Protection & Advocacy
- Providers:
  - Local Disabilities and Special Needs Boards
  - Housing providers for the mentally ill population
  - Adult Day Health Care Providers
  - Private providers of Medicaid and HCBS services
- Beneficiaries and family members

The large workgroup broke into sub-groups to address different tasks of coming into compliance with the HCBS Rule, including a waiver renewal workgroup. The large group meets monthly to discuss the progress of the sub-groups and to examine issues, concerns and the overall vision of how the state can come into compliance with the new regulation.

### **Public Notice and Comment on Waiver Amendment**

SCDHHS has developed policy to provide multiple methods of public notice and input on waiver amendments which also includes its accompanying transition plan.

- The Medical Care Advisory Committee (MCAC) was provided advisories on the HCBS Rule and the draft HIV/AIDS waiver amendment on September 10, 2014 and May 5, 2015.
- Per 42 CFR 441.304 (f)(4), Tribal Notification was provided on September 10, 2014 and May 5, 2015. A Tribal Notification conference call for the draft waiver amendment and draft transition plan was held May 20, 2015.

- Public notice on the draft HIV/AIDS waiver amendment and draft waiver transition plan, including the draft waiver amendment document and the draft waiver transition plan document, was posted on the following website before or on August 21, 2015.
  - SCDHHS website (scdhhs.gov)
- Public notice for comment on the draft HIV/AIDS waiver amendment and draft transition plan was sent out via the SCDHHS listserv before or on August 21, 2015.
- Public notice on the draft HIV/AIDS waiver amendment document and draft waiver transition plan was sent out via e-mail to pertinent organizations, including MCAC and Tribal Notification before or on August 21, 2015.
- Printed public notice on the draft HIV/AIDS waiver amendment document and draft waiver transition plan was posted at SCDHHS Jefferson Square/Headquarters Lobby before or on August 21, 2015.
- Printed copy of the draft HIV/AIDS waiver amendment document and draft waiver transition plan document were made available for public view and comment at SCDHHS Jefferson Square/Headquarters Lobby before or on August 21, 2015.
- Printed copies of public notice on the draft HIV/AIDS waiver amendment and draft waiver transition plan, including a printed copy of the draft waiver amendment document and draft waiver transition plan document, were provided in all 10 Community Long Term Care Area Offices and 2 satellite offices before or on August 21, 2015.
- Public comments will be gathered from electronic communications sent to SCDHHS and from communications mailed to SCDHHS.

SCDHHS will review all comments from public postings and incorporate any appropriate changes to the waiver amendment and its transition plan based on public comments.

### **Assessment of Regulations, Policies, Licensing Standards, and Other Provider Requirements**

#### **Process of System-Wide Review**

As part of the larger scope of the Statewide Transition Plan, SCDHHS reviewed the regulations, policies, standards, and other provider requirements that directly impact home and community-based settings. The list of regulations, policies, etc., was separated according to HCB setting. They were read and reviewed to determine that the regulation, policy, etc. is not a barrier to the settings standards outlined in the HCBS Rule.

The list of laws, regulations, etc., was separated according to HCB setting. They were read and reviewed to determine that the law, regulation, etc. is not a barrier to the settings standards outlined in the HCBS Rule. The settings for South Carolina are divided as follows:

- Adult Day Health Care Centers
- Residential settings (serving some individuals that are served through the HIV/AIDS Waiver):
  - Community Residential Care Facilities

A report was developed detailing the relevant laws, regulations, policies, standards, and directives that correspond with each HCBS settings requirement. A committee of external stakeholders (including providers, advocates, and other state agencies) reviewed the system-wide assessment and document. That group provided feedback to verify the findings of the SCDHHS review.

### **Outcomes of System-Wide Review**

As part of the Statewide Transition Plan, the following standards, rules, requirements, law, regulations, and policies were assessed:

1. [Adult Protection, S.C. Code Ann. §§ 43-35-5 et seq.](#)
2. [Department of Health and Human Services, S.C. Code Ann. §§ 44-6-10 et seq.](#)
3. [Community Residential Care Facilities, S.C. Regs. 61-84](#)
4. [Department of Health and Human Services S.C. Regs. Chapter 126](#)
5. [SCDHHS Provider Manuals](#)
  - a. CLTC Provider Manual
  - b. SC Medicaid Policy and Procedures Manual

After a review of these sources, SCDHHS has identified the following area as not being fully compliant with the Federal settings regulations and will seek specific action to come into compliance:

1. **SCDHHS Policy, Waiver Documents, and SCDDSN Medicaid Waiver Policy Manuals**  
**Medicaid HCB Waiver Policy Regarding Waiver Services Provided while Clients Travel Out-of-State:** *"[...] Waiver participants may travel out of state and retain a waiver slot under the following conditions: the trip is planned and will not exceed 90 consecutive days; the participant continues to receive a waiver service consistent with SCDDSN policy; the waiver service received is provided by a South Carolina Medicaid provider; South Carolina Medicaid eligibility is maintained. During travel, waiver services will be limited to the frequency of service currently approved in the participant's plan. Services must be monitored according to SCDDSN policy. The parameters of this policy are established by SCDHHS for all HCB Waiver participants."*
  - a. This policy does not specifically touch on any of the home and community-based settings requirements, but it may be an unnecessary restriction on an individual with disabilities. This policy may need further review.

All other laws, regulations, standards, directives, and policies reviewed were either supporting or not objecting to the home and community-based settings regulations and no further action needs to be taken.

### **Actions to Bring System into Compliance**

For any relevant state laws that do not meet the HCBS settings requirements outlined in the Code of Federal Regulations (CFR), changes will be pursued as appropriate and noted above.

For any relevant regulations that do not meet the HCBS settings requirements outlined in the CFR, changes will be pursued as appropriate and noted above and in accordance with the [“Regulatory Process in South Carolina.”](#)

For any relevant SCDHHS policies that do not meet the HCBS setting requirements outlined in the CFR, SCDHHS will utilize its internal process for initiating or revising policies.

For any relevant external policies, standards, or directives that do not meet the HCBS setting requirements outlined in the CFR, SCDHHS will work with the appropriate external agency to revise them to reflect the standards in the CFR.

### **Ongoing Compliance of System**

Compliance will be monitored on an on-going basis per SCDHHS policies. This includes, but is not limited to, SCDHHS internal policy review process, provider enrollment and revalidation requirements as well as program area policies, quality assurance standards and indicators, and provider qualification requirements.

## **Assessment of Settings**

### **Setting Types**

The majority of HIV/AIDS participants reside in their own homes; therefore participants’ homes are the primary setting where home and community-based services are provided in the HIV/AIDS waiver. However, a few participants reside in Community Residential Care Facilities. Participants in this waiver do not attend Adult Day Health Care (ADHC).

***Community Residential Care Facility (CRCF).*** This model offers the opportunity to live in the community in a homelike environment under the supervision of qualified, trained caregivers. Care, supervision and skills training are provided according to identified needs as reflected in the service plan.

### **Setting Assessment Process**

The setting assessment process is part of the overall process detailed in the Statewide Transition Plan. The C4 Individual Facilities/Settings Assessment process and the Waiver Participant Surveys are detailed here.

**C4 Individual Facilities/Settings Assessment.** The C4 assessment is designed to evaluate individual facilities to determine compliance with the HCBS criteria outlined in 42 CFR Part 441.301(c)(4).

***Development of the assessment tools and criteria.*** Two assessment tools were developed for individual facilities: one for residential facilities and another for day (non-residential) facilities. The criteria used to create these tools is outlined in the 42 CFR Part 441.301(c)(4). Additionally, SCDHHS used the exploratory questions issued by CMS for the settings requirements. The assessment tools will be used in two ways to measure individual facilities. First, they will be used by providers to complete the self-assessment of individual

facilities. Second, SCDHHS or a contracted vendor will use the tools as an independent assessment during site visits. The setting-specific assessments are online tools. For providers who may not have internet access, SCDHHS will provide paper copies.

SCDHHS will pilot test the setting-specific assessment tools to determine reliability and decide if any revisions need to be made prior to distributing to providers. Testing the pilot will be conducted with providers who own or operate home and community-based settings. The testing process will also aid in the development of clear instructions on how to complete the assessment. Pilot testing began in January 2015 and was completed March 2015.

***Resources to conduct assessments and site visits.*** Resources to conduct the assessments will come from SCDHHS personnel and financial resources as well as individual provider personnel and financial resources.

SCDHHS anticipates that electronic notification of the individual facility assessment process will be sent to providers in the spring of 2015. Following the notification the agency will send individual letters to providers with instructions on how to conduct the setting-specific assessments. For providers who may not have internet access, paper copies of the assessment tools will be mailed to them.

Individual letters will be sent to all residential and non-residential providers with instructions on how to complete that assessment within a 45 calendar day time frame. The deadline will be established based on the letter's approximate day of delivery to providers. All day (non-residential) settings will be assessed. Due to the large number of residential settings and limited SCDHHS resources, each residential provider will conduct a self-assessment of a representative sample of their residential settings, as determined by SCDHHS. It is expected that each residential provider conduct a self-assessment on all of their residential settings to determine its level of compliance and establish any steps that may be needed to come into compliance if there are deficiencies.

Individual site visits will occur during that same time as the provider self-assessments. These site visits will be on individual settings and will be conducted by SCDHHS or a contracted vendor. All day (non-residential) settings will be subject to an independent site visit. Providers of residential services will only complete self-assessments on a representative sample of their settings as determined by SCDHHS. Any residential setting from a provider may be subject to a site visit. Any setting, residential or non-residential, that self-identified through the C5 assessment as potentially being subject to the heightened scrutiny process will be subject to an independent site visit.

***Timeframe to conduct assessments and site visits.*** Each part of the assessment process has an estimated time for completion. These time frames are based on personnel and financial resources and may vary.

Providers have 45 calendar days to complete and return the self-assessment for the settings they own and/or operate to SCDHHS. The deadline will be established based on the letter's approximated day of delivery to providers.

Independent site visits are anticipated to take approximately 12 months to complete. This timeframe will begin once either SCDHHS or a contracted vendor is confirmed as the entity who will conduct the site visits. The site visits may start later than the provider self-assessment time frame.

**Assessment review.** SCDHHS will individually review all setting-specific assessments to determine if each setting is or is not in compliance. To determine the level of compliance or non-compliance, SCDHHS will use the data collected during both the provider self-assessment and the independent site visit assessment. Providers will receive written feedback from SCDHHS on each setting after the assessments are reviewed. SCDHHS' goal is to complete the assessment review within 12 months from the start of the independent site visits.

**Waiver Participant surveys.** Waiver participant experience and satisfaction surveys are waiver specific and ask questions directly of the waiver participant/Primary Contact about their experiences with services in the waiver and their satisfaction level with those services. There is a survey for HIV/AIDS waiver participants.

**Development of the assessment tools and criteria.** This survey is created and conducted by an external contracted entity. The survey will be reviewed and any supplemental questions may be added as they relate to the standards listed in 42 CFR Part 441.301(c)(4).

**Resources to conduct assessments.** Resources to conduct the surveys will come from SCDHHS personnel and financial resources as well as the contracted vendor's personnel and financial resources.

SCDHHS has contracted with an external entity and they are currently developing the HIV/AIDS waiver participant experience and satisfaction survey.

**Timeframe to conduct assessments.** Each part of the assessment process has an estimated time for completion. These time frames are based on personnel and financial resources and may vary.

The agency anticipates that the HIV/AIDS waiver participant experience and satisfaction survey will be completed in 2015 per the contract requirements.

**Assessment review.** SCDHHS will review all relevant data gathered from the HIV/AIDS waiver participant experience and satisfaction survey to aid in determining where settings may or may not be in compliance.

## **Outcomes**

**C4 Individual Facilities/Settings Assessment.** As individual facilities are assessed and reviewed, SCDHHS will compile that data to submit to CMS. Upon completion, SCDHHS will be able to show what percentage of facilities, by type, meet the settings criteria and what percentage do not.

**Waiver Participant surveys.** When the HIV/AIDS waiver participant experience and satisfaction survey is completed, SCDHHS will review the data and determine if any changes are needed in waiver policies or procedures. Additionally, the agency will use the data to assist providers as they develop their action plans for compliance.

## **Actions for facilities deemed not in compliance**

SCDHHS will develop an individualized response for each facility to the self-assessment and site visit. The agency will leverage responses from the self-assessment and site visit to identify gaps in compliance. Providers create an action plan for their facility and indicate how they will bring it into compliance with the requirements. The action plan must include a timeframe for

completion and be submitted to SCDHHS for approval within 30 days of receiving the written notice.

SCDHHS, or a contracted vendor, will conduct site visits to monitor the progress of those providers who must come into compliance. These will occur after a facility's action plan has been approved by SCDHHS, but before the March 2019 compliance deadline.

**Ongoing compliance**

Compliance will be monitored on an on-going basis per SCDHHS policies. This includes, but is not limited to, provider enrollment and revalidation requirements as well as program area policies, quality assurance standards and indicators, and provider qualification requirements.

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**South Carolina Home and Community Based Services Transition Plan Timeline  
HIV/AIDS Waiver Amendment**

<b>Section 1. Identification</b>						
<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Identify Residential programs	Identify the number and type of residential programs serving individuals in the waiver.	March 2014	April 2014	SCDDSN	SCDHHS, SCDDSN	Number of facilities to assess identified.
Regulation and policy identification	Identify regulations, policies, standards, and directives that impact HIV/AIDS HCB Settings.	September 2014	October 2014	SCDHHS, SCDDSN, SCDHEC, SC Code of Regulations	SCDHHS, SCDDSN, private providers	Gather all sources of regulation in advance of systemic review.
<b>Section 2. Assessment</b>						
<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Review existing regulations, policies, standards, and directives for HIV/AIDS HCB settings	As part of the Statewide Transition plan, conduct review of existing policies, qualification standards, licensure regulations, etc. for HIV/AIDS HCB settings to determine conformance to HCBS rule using CFR language as the rubric.	October 2014	January 2015	SC Code of Regulations, SCDHHS policies, SCDDSN policies, SCDHEC regulations	SCDHHS, SCDDSN, SCDHEC	Determine compliance with HCB standards.
<b>Section 2. Assessment continued</b>						
<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Develop Residential assessment tool	Create an assessment tool for residential providers to evaluate	June 2014	September 2014	CMS Guidance, CFR, State developed	SCDHHS, SCDDSN, providers	Assessment tool is developed.

	compliance with settings requirements.			assessment tools (Iowa, Kansas, Florida)		
Submit assessment tool for review	Assessment tool submitted to CMS and the large Stakeholder workgroup for review and feedback.	August 2014	September 2014; December 2014	Draft assessment tool	SCDHHS, SCDDSN, Providers, Advocacy groups, beneficiaries, families	Incorporate appropriate revisions into tool.
Conduct pilot test of assessment tool	Assessment tool will be sent to a sample of providers to test and determine if revisions are needed. Clear instructions on completion of the tool will be developed from this pilot.	January 2015	February 2015	Draft assessment tool	SCDHHS, SCDDSN, Providers	Test assessment tool to ensure accurate data is gathered.
<b>Section 2. Assessment <i>continued</i></b>						
<b><i>Action Item</i></b>	<b><i>Description</i></b>	<b><i>Proposed Start Date</i></b>	<b><i>Proposed End Date</i></b>	<b><i>Sources</i></b>	<b><i>Stakeholders</i></b>	<b><i>Intervention/Outcome</i></b>
Revise assessment and develop instructions	The assessment tool will be revised as needed after the pilot testing. Clear instructions will be developed for completion of the assessment.	March 2015	March 2015	Draft assessment tools	SCDHHS, SCDDSN, Providers	Finalize tool for distribution.
Distribute the assessment tool to providers	Providers will complete the self-assessment tool to determine compliance with HCBS settings requirements.	March/April 2015* <i>*Providers will have 45 days to complete</i>	April/May 2015	Assessment Tool	SCDHHS, Providers, SCDDSN	Providers complete the assessment.

		<i>the assessment</i>				
Conduct site visits at provider facilities	SCDHHS or contracted vendor will conduct site visits on individual settings to determine if any corrective action is needed to meet new standards.	April 2015	April 2016	Assessment results; enrolled providers; HCBS Standards	SCDHHS, SCDDSN, Providers, Advocacy groups, beneficiaries, families	Independent assessment of individual settings is completed.
Review of assessment data	SCDHHS will review the assessment data from the providers and the independent site visits to determine which facilities are in compliance and which facilities are not.	May 2015	May 2016	Assessment results	SCDHHS; SCDDSN, providers	Results identify deficiencies and steps needed to come into compliance are determined.
Create response to providers using results from the assessment	Providers will be notified of their assessment results and any areas of correction for compliance with HCBS Rule.	May 2015	June 2016	Assessment results	SCDHHS, SCDDSN, Providers, Advocacy groups, beneficiaries, families	Providers aware of deficiencies regarding compliance with HCBS Rule.
<b>Section 3. Compliance Actions</b>						
<b>Action Item</b>	<b>Description</b>	<b>Proposed Start Date</b>	<b>Proposed End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Policy Revisions	SCDHHS will review and revise policies as necessary to reflect HCBS regulations as well as ongoing monitoring and compliance.	January 2015	December 2015	CMS Guidance, CFR, SCDHHS policy manuals	SCDHHS, Partner agencies, providers, beneficiaries, families, advocacy groups	Policies reflect HCBS requirements.

Develop action plan for compliance	SCDHHS informs providers to create their own action plan outlining how they will bring their facility(ies) into compliance. It will be submitted to SCDHHS to review and approve.	June 2015* <i>*Providers will have 30 days to develop an action plan</i>	July 2016	Assessment results, information from SCDHHS, CMS guidance	SCDHHS, Providers	Each provider develops an approved action plan for compliance.
Provider follow up	SCDHHS will follow up with providers to monitor progress towards compliance and if HCBS requirements are met based on timeframe in their approved action plans	July 2015	March 2019	Assessment results, Provider action plans, CMS Guidance, CFR, SCDHHS policies	SCDHHS, Providers	Providers come into compliance with HCBS rule.
Provider Training and Education	To ensure understanding of HCBS rule requirements, SCDHHS will develop and provide training/education as needed to providers, ensure ongoing compliance with requirements.	January 2015	December 2015	CMS Guidance, CFR, SCDHHS policies,	SCDHHS, partner agencies, providers	Educate providers on HCBS rule and its requirements.
<b>Section 4. Communications</b>						
<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Form Stakeholder workgroup	Invited various stakeholders to come together to address new HCBS Final Rule and provide input on plans	Feb. 26, 2014	December 2015	Partner Agencies, Advocacy groups, providers,	Partner Agencies, Advocacy groups, providers, beneficiaries, and families	Monthly workgroup meetings

	to come into compliance.			beneficiaries, and families		
Provide Notice to MCAC	Provide notice of the Waiver Amendment and the Transition plan at MCAC meeting.	September 10, 2014 and May 5, 2015		Advisories to MCAC	SCDHHS, Providers, Beneficiaries, Advocacy groups	MCAC advised of Waiver Amendment and when will be submitted per agency policy.
<b>Section 4. Communications <i>continued</i></b>						
<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>
Tribal Notification	Notice is provided to the Catawba Indian Nation on the amendment of the waiver and transition plan; a conference call is held to discuss.	September 10, 2014; May 5, 2015; and May 20, 2015		Proposed waiver amendment changes and transition plan	SCDHHS, Catawba Indian Nation	Any questions or concerns about waiver amendments or transition plan are addressed.
Public Notice provided for Posting of Draft Waiver Amendment Document and Waiver Transition Plan and Public Meeting	Notice of the draft waiver amendment document and Waiver Transition Plan posted to the SCDHHS website; sent out via listserv to any interested parties, e-mailed to MCAC, Tribal Notification and other pertinent organizations; printed copies posted in all CLTC Area and Satellite Offices and SCDHHS lobby.	Before or on August 21, 2015	September 21, 2015	Public notice document, Waiver document, HIV/AIDS Transition plan document	SCDHHS, Beneficiaries, families, Providers, Advocacy Groups	Public notice posted along with waiver amendment document and HIV/AIDS waiver transition plan.
<b>Section 4. Communications <i>continued</i></b>						
<b>Action Item</b>	<b>Description</b>	<b>Start Date</b>	<b>End Date</b>	<b>Sources</b>	<b>Stakeholders</b>	<b>Intervention/Outcome</b>

Public comment – waiver amendments and transition plan	SCDHHS will gather public comments for review through multiple methods and make appropriate changes to the waiver amendment and transition plan. Comments will be gathered via mail, email, and in person.	August 21, 2015	September 21, 2015	Public notice document, HIV/AIDS waiver and Transition plan Draft document	SCDHHS, Beneficiaries, families, Providers, Advocacy Groups	Public notice posted along with waiver application document and HIV/AIDS waiver transition plan.
Public Comment collection and revisions	SCDHHS will review all comments on the waiver amendment and transition plan and make appropriate changes to both documents.	August 21, 2015	September 28, 2015	Public comments and any state response documents	SCDHHS	Public comments considered and appropriately incorporated into documents.