

**South Carolina Department of Health and Human Services
Mechanical Ventilator Dependent (Vent) Waiver
Transition Plan - Revised
March 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 Mechanical Ventilator Dependent (Vent) 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 between March 2014 and March 2015. 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 Vent Waiver Amendment. Per CMS requirements, this is available for the public to read and comment 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 settings where home and community based services are provided. 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 Vent 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 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. 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 Renewal

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

- The Medical Care Advisory Committee (MCAC) was provided advisories on the HCBS Rule and the Vent waiver amendment and transition plan on November 12, 2014 and September 10, 2014.
- Per 42 CFR 441.304 (f)(4), Tribal Notification was provided on November 12, 2014 and September 10, 2014. A Tribal Notification conference call for the waiver amendment and transition plan was held October 29, 2014.
- Public notice for comment on the Vent waiver amendment and transition plan was posted on the SCDHHS website on November 10, 2014.

- Public notice for comment on the Vent waiver amendment and transition plan was sent out via the SCDHHS listserv on November 10, 2014.
- Four public meetings were held to discuss the Vent waiver amendment and its transition plan, as well as the HCBS Rule and what it means for South Carolina beneficiaries. These meetings were held in November and December 2014 on the Vent waiver amendment, the Vent waiver transition plan and the HCBS Rule in the following cities:
 - Florence, SC Nov. 13, 2014
 - Greenville, SC Nov. 18, 2014
 - Charleston, SC Dec. 2 , 2014
 - Columbia, SC Dec. 4, 2014
- Public notice on the Vent waiver amendment and revised waiver transition plan, including the draft waiver amendment document and the revised waiver transition plan document, was posted on the following websites on March 20, 2015:
 - SCDHHS website (scdhhd.gov)
- Public notice on the Vent draft waiver amendment document and revised waiver transition plan was sent out via the SCDHHS listserv on March 20, 2015.
- Public notice on the Vent draft waiver amendment document and revised waiver transition plan was sent out via e-mail to pertinent organizations, including MCAC and Tribal Notification on March 20, 2015
- Printed public notice on the Vent draft waiver amendment document and revised waiver transition plan was posted at SCDHHS Jefferson Square/Headquarters Lobby on March 20, 2015.
- Printed copy of the Vent draft waiver amendment document and revised waiver transition plan document were made available for public view and comment at SCDHHS Jefferson Square/Headquarters Lobby on March 20, 2015.
- Printed copies of public notice on the Vent waiver amendment and revised waiver transition plan, including a printed copy of the draft waiver amendment document and waiver transition plan document, was provided in all 10 Community Long Term Care and 2 Satellite Offices on March 20, 2015.
- Public comments were gathered from the public meetings listed above, from electronic communications sent to SCDHHS, and from any communications mailed to SCDHHS.

SCDHHS will review all comments from public meetings and 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.

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 as they relate to the Vent Waiver:

1. [Department of Health and Human Services, S.C. Code Ann. §§ 44-6-10 et seq.](#)
2. [Department of Health and Human Services S.C. Regs. Chapter 126](#)
3. [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 areas as not being fully compliant with the Federal settings regulations and will seek specific action to come into compliance:

1. **SC Code Ann. § 44-20-420:** *“The director or his designee may designate the service or program in which a client is placed. The appropriate services and programs must be determined by the evaluation and assessment of the needs, interests, and goals of the client.”*
 - a. This law is only partially compliant with 42 C.F.R. 441.301(c)(4)(iv). Having the director or his designee designate the services or program in which a client is placed does not optimize an individual’s initiative, autonomy, and independence in making life choices. However, this law only gives the director the authority to designate services or programs for an individual and does not mandate that they do so, and because of that, SCDHHS does not foresee having to ask the South Carolina General Assembly to make changes to this law. Additionally, the effect of this law is mitigated by the person-centered service process that places an individual in the center of the service planning process and empowers them to make their own choices as to which services they are provided and by whom.
2. **SCDHHS Policy, Waiver Documents, and DDSN 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 of 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

All of the mechanical ventilator dependent waiver participants reside and receive services in their own homes. The HCB regulation allows states to presume a waiver participant’s home meets the requirements of HCB settings, therefore an assessment for compliance with the HCB settings requirements would not be necessary.

**South Carolina Home and Community Based Services Transition Plan Timeline
Mechanical Ventilator Dependent (Vent) Waiver Amendment**

Section 1. Identification

<i>Action Item</i>	<i>Description</i>	<i>Start Date</i>	<i>End Date</i>	<i>Sources</i>	<i>Stakeholders</i>	<i>Intervention/Outcome</i>
Identify Residential settings	Identify the number and type of residential settings serving individuals in the waiver.	March 2014	April 2014	SCDDSN	SCDHHS, SCDDSN	As the services in this waiver are primarily offered at an individual's home, settings are presumed to be in compliance based on setting definitions in the HCBS Rule. No assessment is needed.
Regulation and policy identification	Identify regulations, policies, standards, and directives that impact Vent HCB Settings.	September 2014	October 2014	SCDHHS, SCDHEC, SC Code of Regulations	SCDHHS, private providers	Gather all sources of regulation in advance of systemic review.

Section 2. Assessment						
Action Item	Description	Start Date	End Date	Sources	Stakeholders	Intervention/Outcome
Review existing regulations, policies, standards, and directives for Vent HCB settings	As part of the Statewide Transition plan, conduct review of existing policies, qualification standards, licensure regulations, etc. for Vent HCB settings to determine conformance to HCBS rule using CFR language as the rubric.	October 2014	January 2015	SC Code of Regulations, SCDHHS policies, other state agency regulations as appropriate	SCDHHS	Determine compliance with HCB standards.
Section 3. Compliance Action						
Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Intervention/Outcome
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.
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.

Section 4. Communications						
Action Item	Description	Start Date	End Date	Sources	Stakeholders	Intervention/Outcome
Form Stakeholder workgroup	Invited various stakeholders to come together to address new HCBS Final Rule and provide input on plans to come into compliance.	Feb. 26, 2014	December 2015	Partner Agencies, Advocacy groups, providers, beneficiaries, and families	Partner Agencies, Advocacy groups, providers, beneficiaries, and families	Monthly workgroup meetings
Provide Notice to MCAC	Provide notice of the Waiver Amendments and the Transition plan at MCAC meetings.	November 12, 2014		Advisories to MCAC	SCDHHS, Providers, Beneficiaries, Advocacy groups	MCAC advised of Waiver amendments and when will be submitted per agency policy.
Tribal Notification	Notice is provided to the Catawba Indian Nation on the amendment of the waiver and a conference call is held to discuss.	Oct. 29, 2014 and Sept. 10, 2014	Nov. 12, 2014	Proposed waiver amendment changes	SCDHHS, Catawba Indian Nation	Any questions or concerns about waiver amendments are addressed.

Section 4. Communications <i>continued</i>						
Action Item	Description	Start Date	End Date	Sources	Stakeholders	Intervention/Outcome
Public Notice provided	Notice of the waiver amendments posted to the SCDHHS website, sent out via listserv to any interested parties, and shared with members of the large Stakeholder workgroup.	Nov. 10, 2014	Dec. 12, 2014	Public notice document, Vent Transition plan Draft document	SCDHHS, Beneficiaries, families, Providers, Advocacy Groups	Public notice posted with transition plan for Vent waiver.
Public comment – waiver amendments and transition plan	SCDHHS gathered public comments for review through multiple methods and made appropriate changes to the waiver and transition plan. Comments were gathered via mail, email, and in person.	Nov. 10, 2014	Dec. 2014	Public notice document, Vent Transition plan Draft document	SCDHHS, , Beneficiaries, families, Providers, Advocacy Groups	Public notice posted with transition plan for Vent waiver.
Public meetings conducted on Waiver Amendment and Transition Plan	Four public meetings were held throughout state for citizens to comment on the proposed waiver amendment changes and waiver transition plan.	Nov. 13, 2014	Dec. 4, 2014	Public notice document, Vent Transition plan Draft document	SCDHHS, Beneficiaries, families, Providers, Advocacy Groups	Public notice posted with transition plan for Vent waiver.
Public Comment collection and revisions	SCDHHS reviewed all comments on the waiver amendment and transition plan and made appropriate	Nov. 13, 2014	Dec. 2014	Public comments and any state response documents	SCDHHS	Public comments considered and appropriately incorporated into documents.

	changes to both documents.					
Section 4. Communications <i>continued</i>						
Action Item	Description	Start Date	End Date	Sources	Stakeholders	Intervention/Outcome
Second Public Notice provided for Posting of Waiver Amendment Document and Waiver Transition Plan	Notice of the waiver amendment 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 Community Long Term Care Area and Satellite offices and SCDHHS lobby	March 20, 2015	April 20, 2015	Public notice document, Waiver document, Vent Transition plan document	SCDHHS, , Beneficiaries, families, Providers, Advocacy Groups	Public notice posted along with waiver amendment document and Vent waiver transition plan.
Public comment – waiver amendment 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.	March 20, 2015	April 20, 2015	Public notice document, Waiver Document, Vent Transition plan Draft document	SCDHHS, Beneficiaries, families, Providers, Advocacy Groups	Public notice posted along with waiver amendment document and Vent waiver transition plan.
Public Comment collection and revisions	SCDHHS will review all comments on the waiver amendments and transition plan and make appropriate	March 2015	April 2015	Public comments and any state response documents	SCDHHS	Public comments considered and appropriately incorporated into documents.

	changes to both documents.					
--	----------------------------	--	--	--	--	--

DRAFT