

South Carolina Department of Health and Human Services
Mechanical Ventilator Dependent (Vent) Waiver
Transition Plan
Revised: July 3, 2017

Introduction

The Center for Medicare and Medicaid Services (CMS) issued a final rule on Home and Community Based Services (HCBS) establishing certain requirements for 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 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.

For provider owned and/or controlled residential HCB settings, CMS has listed the following additional conditions that must be met (per 42 CFR 441.301(c) (4) (vi)):

- A legally enforceable agreement (lease, residency agreement, or other form of written agreement) is in place for each individual in the HCB home/setting within which he/she resides.
- Each individual has privacy in their sleeping or living unit.
- Units have lockable entrance doors with the individual and appropriate staff having keys to doors as needed.
- Individuals sharing units have a choice of roommates.
- Individuals can furnish and decorate their sleeping or living units within the lease or other agreement.
- Individuals have freedom and support to control their schedules and activities.
- Individuals have access to appropriate food any time.

- Individuals may have visitors at any time.
- The setting is physically accessible to the individual.
- Any modification of the additional conditions for HCB residential settings listed above must be supported by a specific assessed need and justified in the person-centered service plan.

CMS has also listed the following as settings that are not home and community based (per 42 CFR 441.301 (c) (5)):

- A nursing facility
- An institution for mental diseases (IMD)
- An intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- A hospital
- Any other settings that have the qualities of an institutional setting. This includes:
 - Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment
 - Any setting in a building on the grounds of, or immediately adjacent to, a public institution
 - Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS

Any of the settings that have qualities of an institutional setting will be presumed to be institutional, and therefore HCB services cannot be provided in the setting, unless the Secretary of the US Department of Health and Human Services determines through heightened scrutiny that the setting does have the qualities of home and community-based settings and services can still be provided in that setting.

The South Carolina Department of Health and Human Services (SCDHHS) has branded this effort for HCBS with the tagline: *Independent·Integrated·Individual*. This tagline was developed because home and community-based services help our members be independent, be integrated in the community, and are based on what is best for the individual.

1.1 Waiver Specific Transition Plan Development

CMS required 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. States must come into full compliance with HCBS Rule requirements by March 17, 2022.

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

- SC Department of Health and Human Services (34%)
- SC Department of Mental Health (1%)
- SC Department of Disabilities and Special Needs (9%)

- SC Vocational Rehabilitation Department (3%)
- Other governmental partners (4%)
- Advocacy groups (18%):
 - AARP South Carolina
 - Family Connections of South Carolina
 - Protection & Advocacy for People with Disabilities, Inc.
 - Able South Carolina
- Providers (26%):
 - 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 (5%)

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.

Per CMS requirements, the first draft of this Vent Waiver Transition Plan (April 2015) was made available for the public to read and comment on before being submitted to CMS for review. This plan may change as the state goes through the process of coming into compliance with the HCBS Rule. Since its initial submission, the Vent Waiver Transition Plan has been revised three (3) times as noted in the chart below. Anytime this plan undergoes any substantive changes after submission to CMS, the state will make it available again for public comment and input.

Revisions to Mechanical Ventilator Transition Plan

Date of Revision	Reason
April 2015	CMS first review of Mechanical Ventilator Transition plan requiring revisions
September 2015	The Mechanical Ventilator Dependent Waiver was amended. Mechanical Ventilator Transition plan revised due to substantive changes made in the Statewide Transition Plan (STP)
April 2016	The Mechanical Ventilator Dependent Waiver was amended. The Mechanical Ventilator Transition plan revised to include substantive changes made to the STP
July 2017	Mechanical Ventilator Dependent waiver was renewed. Revised Mechanical Ventilator Transition plan due to substantive changes

	made to the STP and public comments made regarding the STP.
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2. Communications and Outreach-Public Notice Process

SCDHHS used multiple methods of public notice and input for the Mechanical Ventilator Waiver amendment and Transition Plan that was submitted to CMS in April 2015.

- The Medical Care Advisory Committee (MCAC) was provided advisories on the HCBS Rule and the Vent Transition plan on September 10, 2014 and November 12, 2014
- Per 42 CFR 441.304 (f)(4), Tribal Notification was provided on September 10, 2014 and November 12, 2014. A Tribal Notification conference call for the transition plan was held October 29, 2014.
- Public notice for comment on the Vent Waiver Transition plan was posted on the SCDHHS website on November 10, 2014.
- Public notice for comment on the Vent Waiver 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 Vent Waiver 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 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 revised waiver transition plan, including the revised waiver transition plan document, was posted on the following website on March 20, 2015:
 - SCDHHS website (scdhhs.gov)
- Public notice on the Vent revised waiver transition plan was sent out via the SCDHHS listserv on March 20, 2015.
- Public notice on the Vent 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 revised waiver transition plan was posted at SCDHHS Jefferson Square/Headquarters Lobby on March 20, 2015.
- Printed copy of the Vent 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 revised waiver transition plan, including a printed copy of the revised waiver transition plan document, were provided in all Community Long Term Care Area Offices and satellite offices on March 20, 2015.
- Public comments were gathered from the public meetings listed above, from electronic communications sent to SCDHHS and from communications mailed to SCDHHS.

- SCDHHS reviewed the comments and incorporated any appropriate changes to the Vent Transition Plan. A summary of the public comments was included with the Vent Transition Plan submitted to CMS in April 2015.

South Carolina's revised HCBS Mechanical Ventilator Transition Plan, as submitted to CMS, is posted in the following location:

scdhhs.gov/public-notice

2.2 Communication during the Implementation of the Mechanical Ventilator Transition Plan

SCDHHS continues to hold monthly HCBS workgroup meetings and/or communicate to the workgroup monthly via email. This communication keeps stakeholders informed of the progress made during the implementation of the Mechanical Ventilator Transition Plan. Additionally, SCDHHS will publish on its main website and its HCBS website an annual update on transition plan activities. This update will also be made available in the CLTC Regional Offices and shared with interested stakeholders.

These communication efforts should allow for ongoing transparency and input from stakeholders on the Mechanical Ventilator Transition Plan.

As noted in the guidance and Questions and Answers documents provided by CMS, any substantive changes in an approved Statewide Transition Plan will require the state to go through the public notice and comment process again. This applies to the Mechanical Ventilator Transition Plan as well.

2.3 Update April 2016. The Statewide Transition plan was revised three times since its original submission to CMS on February 26, 2015.

- September 25, 2015
- February 3, 2016
- February 23, 2016

The version of the STP dated February 23, 2016 required substantive changes; thus requiring the Mechanical Ventilator Transition plan to be revised to ensure compliance. Therefore, the Mechanical Ventilator Transition plan was revised April 2016 and made available through the following methods:

- Public Notice of intent was emailed to the agency listserv of interested agency stakeholders and group distribution which included MCAC members and Indian Health Services on or before April 25, 2016.
- Public Notice of intent was posted to the agency website on or before April 25, 2016.
- This Transition plan was posted to the agency HCBS website and Healthy Connections Prime website on or before April 25, 2016.
- Hard copies were placed in the SCDHHS lobby and the 13 SCDHHS offices around the state on or before April 25, 2016 for public review and comment.
- Additionally, a public meeting was held on May 3, 2016, to address proposed Vent Transition plan.
- A live webinar was held on Wednesday, May 11, 2016.

- Individuals were able to submit electronic comments to comments@scdhhs.gov and non-electronic comments to :
 - Division of Community Long Term Care
 - South Carolina Department of Health and Human Services
 - Post Office Box 8206
 - Columbia, SC 29202-8206
 - Attention: Lisa Ragland

Both methods of comments submission were noted in the Public Notice.

2.4 Update July 2017

As the Mechanical Ventilator Dependent Waiver is going through the renewal process, the Vent Transition Plan is also being updated to match the most recent version of the Statewide Transition Plan dated November 3, 2016, to ensure compliance. The Vent Transition Plan was made available through the following methods:

- This renewal to include the Vent Waiver Transition Plan was shared during the agency's monthly Indian Health Services conference call on June 28, 2017 and presented to the Medical Care Advisory Committee (MCAC), which included Tribal Notification, on August 29, 2017.
- Public Notice of intent was emailed to the agency listserv of interested agency stakeholders and group distribution which included MCAC members and Indian Health Services on July 10, 2017.
- Public Notice of intent was posted to the agency website on July 10, 2017.
- This Transition plan was posted to the agency HCBS website on July 10, 2017.
- Hard copies were placed in the SCDHHS lobby and the 13 SCDHHS CLTC Regional offices around the state on July 10, 2017 for public review and comment.
- A live webinar was held on August 9, 2017.
- Individuals were able to submit electronic comments to comments@scdhhs.gov and non-electronic comments to :

- Division of Community Long Term Care
 - South Carolina Department of Health and Human Services
 - Post Office Box 8206
 - Columbia, SC 29202-8206
 - Attention: Lisa Ragland

Both methods of comments submission were noted in the Public Notice.

3. Assessment of System-Wide Regulations, Policies, Licensing Standards, and Other Provider Requirements

3.1 Process of System-Wide Review

SCDHHS compiled a list of the laws, regulations, policies, standards, and directives that directly impact home and community based settings. This includes any settings in the Mechanical Ventilator Dependent waiver. The list was vetted through the appropriate leadership at SCDHHS,

the South Carolina Department of Disabilities and Special Needs (SCDDSN), and other stakeholders to ensure that it was complete.

The list of laws, regulations, etc., was separated according to HCB setting. They were read and reviewed to determine that the law, regulations, etc. is not a barrier to the settings standards outlined in the HCBS rule. This review took place between October 2014 and January 2015. Any changes to any of the following laws, regulations, policies, standards, and directives after that time period have not been reviewed but will be subject to the ongoing compliance process. The settings for Mechanical Ventilator waiver are divided as follows:

- All of the Mechanical Ventilator Dependent Waiver participants reside and receive services in their own homes.

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. Changes and clarifications to the systemic assessment were made based on the external stakeholder committee review.

3.2 Outcomes of System-Wide Review

Based on feedback from CMS, SCDHHS reformatted the below information. The information and results have not changed, but the full analysis is now included indicating where our system complies with or conflicts with the HCB setting requirements, remediation needed, and the timeframe within which the remediation occurred or will occur.

3.2.1 Identified Laws/Regulations/Policies Found Not Compliant. With the first draft of the Mechanical Ventilator Dependent Transition Plan, SCDHHS identified the following areas as not being fully compliant with the Federal settings regulations. Since that draft, SCDHHS has sought specific action to come into compliance with the HCBS regulations to remediate or ameliorate the below areas of concern.

1. **SCDHHS Policy: Leave of Absence from the State/CLTC Region of a Waiver Participant:** “[...] *“Individuals enrolled in Medicaid home and community-based waivers who travel out of state may retain a waiver slot under the following conditions: the trip out-of-state is a planned, temporary stay, not to exceed 90 consecutive days which is authorized prior to departure; the individual continues to receive a waiver service; waived services are limited to the frequency of services currently approved in the participant’s plan of service; waived services must be rendered by South Carolina Medicaid providers; the individual must remain Medicaid eligible in the State of South Carolina.”*

 - 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 waiver participants

- if they wanted to travel longer than 90 consecutive days. These policies may need further review.
- b. The policy was reviewed and determined that it was an administrative requirement. Therefore, changes will not be sought to this policy.

3.3 Actions to Bring System into Compliance

For those policies, procedures, standards and directives that need modification as indicated in the previous section, SCDHHS will work with the appropriate internal staff and external agencies to make necessary changes. Small teams of key personnel began meeting in the fall of 2015 to review those policies and procedures to determine where changes needed to be made to bring the waiver policies and procedures in line with HCBS requirements.

Community Long Term Care staff are reviewing waiver documents and related policies and procedures for areas that can be revised. CLTC at SCDHHS operates the Mechanical Ventilator Dependent Waiver. This waiver had an amendment submitted to CMS on May 31, 2016 and was approved on August 17, 2016. Changes to this waiver document to meet the HCBS standards were included and since approved, the appropriate changes were made to corresponding waiver policies and procedures.

3.4 Ongoing Compliance of System

Once system policies, procedures, standards and directives have been updated to reflect the new HCBS requirements, ongoing compliance of the system will be monitored per the updated policies.

SCDHHS serves as the Administrative and Operating Authority for the Mechanical Ventilator Dependent waiver. The CLTC division of SCDHHS has waiver review as part of the overall CLTC Quality Assurance (QA) Plan. SCDHHS Central Office has a QA Task Force committee to review all data accumulated. The QA Task Force meets bi-monthly throughout the year to identify and pursue action plans for making improvements in the waiver programs, including any issues related to HCBS settings requirements, as well as in the quality management framework and strategy. This process allows a thorough assessment of areas needing improvement and areas of best practice. Systems improvement for statewide problems can be addressed through different measures, including revision of policy and procedures, thereby allowing SCDHHS to ensure compliance with the new HCBS standards.

Additionally, staff members of CLTC have received and will continue to participate in in-depth training from CMS on HCBS requirements. Any new employees will receive training from knowledgeable staff members on the HCBS requirements.

It is through these established systems of quality assurance review that ongoing compliance of HCBS standards will be monitored after the transition period ends on March 17, 2019.

4. Assessment of Settings

4.1 Setting Types

All of Mechanical Ventilator Dependent waiver participants reside and receive services in their own homes.

4.2 Assessment of Individual Private Homes. Individuals not living in provider-owned or controlled homes deserve the same access and integration to their community as individuals not receiving HCB services. To ensure that these individuals are not isolated in their communities in which they choose to live, SCDHHS must confirm that individual private homes were not established or purchased in a manner that isolates them from their community. The CLTC Division of SCDHHS will explore appropriate ways to gather this information through the regular case manager face-to-face visits or annual re-evaluation assessments of the waiver participant. After policy and process revisions and any staff and/or provider training, a process will be determined and implemented.

4.3 Ongoing compliance

Ongoing compliance of the settings will be monitored through the updated SCDHHS policies and procedures as stated above. SCDHHS serves as the Administrative and the Operating Authority for the Mechanical Ventilator waiver.

The CLTC division of SCDHHS has waiver review as part of the overall CLTC Quality Assurance (QA) plan. Information is gathered and compiled from many data sources including Provider Compliance Reports from SCDHHS staff; APS/critical incident reports; and provider reviews conducted at least every 18 months by SCDHHS.

As part of the CLTC QA Plan, information gathered from the sources previously mentioned is taken to the Quality Improvement Task Force, which is scheduled to meet bi-monthly. Data is reviewed and discussed for discovery of non-compliance and strategies for remediation. Reports and trends are shared with area offices and providers as appropriate. Anything requiring corrective action generates a report and request for corrective action plan to the area office administrator. All reports, corrective action plans, appeals and dispositions are brought to the Quality Improvement Task Force to review outcomes. Outcomes would assist in determining necessary policy or system changes. This process allows a thorough assessment of areas needing improvement and areas of best practice. It is through this established system of quality assurance review that ongoing compliance of HCBS standards will be monitored.

South Carolina assures that the setting transition plan included in this waiver renewal will be subject to any provisions or requirements included in the South Carolina's approved Statewide Transition Plan. South Carolina will implement any required changes upon approval of the Statewide Transition Plan and will make conforming changes to its waiver when it submits the next amendment or renewal.

