Comments for WV Statewide Transition Plan

Effective Date: 7/25/2022, Revised 09/21/2022, Revised 1/08/2023

Number	Date Received	Comment	Status Result Change/No Change-explain
1	06/14/2022	In the document for Public Comment for Transition Plan, are there columns cut off in Exhibit 1?	Change. There are no columns cut off, however, the chart was revised. The commenter was sent an email stating this.
2	04/14/2022	"Initially settings that were owned or leased by the member were determined to be Member Controlled but upon further information received from CMS, it became clear that these settings are Provider Controlled settings due to the IDDW Agency providing services 24 hours per day, thus these settings will be reviewed annually using the standards for provider-controlled settings and remediated if necessary." I agree that member-owned/leased settings are the most efficient way to separate conflict of interest from agencies' financial gain and service provision and meet the vague HBCS rules from CMS. I also agree that leases protect the renter from landlords that take advantage of situations for personal gain. However, the members that receive 24-hour services do not have the same societal and governmental treatment systematically, to compare the protections needed between populations in our state. The application described a CMS clarification of equivocation for requiring a lease from a provider-owned home, that is licensed and approved by	No change – the definition of what a provider-controlled settings is in the Federal Code of Regulations which governs these Home and Community-Based Waiver Programs. CMS has further defined a provider-owned or controlled setting as one in which an individual resides in a physical place that is owned, co-owned and/or operated by a provider of home and community-based services. The settings you describe as 24-hour services setting within the Intellectual/Developmental Disabilities Program may not be provider-owned or leased but these settings are operated by the IDDW Provider Agency and thus are defined as Provider-Controlled settings. In some instances when a lease is not in place and does not fit a particular situation, then a residency agreement might be an acceptable alternative. BMS will be providing training to all providers/case managers on developing residency agreements that will meet the intent of the CMS Integrated Settings Rule. The important thing to remember is the lease or residency agreement is for the benefit of the member not the person who owns the settings. We want to make sure that member's rights are protected and that no one is evicted without proper notice and consideration.

		regulatory bodies from the State agencies, to a member-leased/rented home because 24-hour services are provided. This requirement is going to be detrimental to member placement initially and maintenance. The sudden application for requiring leases for a program requirement after decades of existence with the I/DD Waiver Program appears to be a new intentional barrier to discharge members that are cost-extensive or to discourage families from accessing 24-hour services in the program they are found eligible for but have to apply again to access 24-hour services. For example, some members live with roommates on the I/DD Waiver program that own their home. Those roommates might not want to sign a lease or put the member on their deed, which is their right as a homeowner or a limitation written in their Special Needs Trust. Or, a landlord might have a verbal agreement with a member to live in their rental property after their 80/90-year-old parent passes away/they are physically aggressive towards mom/dad, when otherwise a realty company's rental properties under lease would cost much more per month than the person's fixed income of SSI. Members are already required to be in poverty with the eligibility requirements of the WV I/DD Waiver program and cannot save more than $2,000 without a state-regulated savings account, while most other West Virginians that don't require ICF-level of care can be responsible for their own finances and decisions, in turn the outcomes of decisions of not signing a lease. Therefore, until the program lifts members and their families out of fixed income poverty, provides	Discharge from the program for refusing to sign a lease or a residency agreement would be the last thing that BMS would want to happen and would only occur after much work with BMS and the guardian/landlord has taken place and been totally unsuccessful. We have been able thus far to remediate all of these situations that we are aware of by working with the interested parties. For more information on the CMS rule that defined member-controlled and provider-controlled settings, , please view this link: https://www.medicaid.gov/sites/default/files/2019-12/provider-owned-and-controlled-settings.pdf

		incentives for private employers to hire people with disabilities, stops adding barriers through increasing policy requirements through CMS-guided clarifications, changes WV law to protect people with disabilities from eviction with/without a lease, DHHR/BMS would better serve the I/DD population for uncertainty of placement and eviction to not require a lease for member-rented/leased properties, provide more emergency placement options that are easily accessible/not budget-related, fewer barriers to access 1:1 24-hour services long-term, transitions with no barriers from family to ISS (no DSS-LA, no budget limits, no ratio limits based on bedrooms, no prorating), and higher rates locked into 24-hour services so more agencies and the public want to provide the service to the I/DD population. Discharge from the I/DD Waiver program as a consequence for noncompliance for a member or landlord refusing to sign a lease will cause for state-mandated homelessness for people with I/DD diagnoses not wanting/able to sign a lease, that have had 24-hour services for decades, and/or have no family left to take them in. Finally, those discharged will still cost the DHHR/BMS for increased costs if the intent is to provide new barriers or discharge those that cost the State the most with 24-hour services (as observed in all the trainings, provider calls, and restrictive policies for 24-hour service provision), because the local area homelessness providers will then demand increased funds for what would now be called in this 21st century "Specialized Homeless Shelters," aka ICF/Institutions from the 19th and 20th centuries. Please reconsider this solution or advocate for hardship potentials for requiring leases	

		as a program requirement, as not applicable to all members if required, and/or provide it as guidance for members in specific scenarios for protection and support during placement emergencies as a team-based decision, not discharge.	
3	06/22/2022	A member's mother received a letter in the mail informing her about the public comment period and she wanted to make a comment over the telephone. When called she wanted to make a statement about how pleased she was with the Intellectual/Developmental Disabilities Waiver Program and that she thought it was a wonderful program for her and her son.	No change.
4	06/27/2022	Page 12. The Specialized Family Care Program Bullet Point. "The SFC homes were incorporated into Appendix N on Page 277, however, some IDDW services are providing in Specialized Family Care (SFC) Settings." -- This sentence is very clunky and I am not sure what it is trying to communicate. Also, the TOC says that this is Appendix M and it starts on page 125, not page 277. "These are foster homes for children and adults with disabilities." -- I think this is an oversimplification. Specialized Family Care	Change. This sentence has been changed to the following: The SFC homes were incorporated into Appendix M. Some IDDW services are provided in Specialized Family Care (SFC) settings. No Change. The Specialized Family Care Homes are foster homes. WVDHHR Bureau for Social Services currently contracts with West Virginia University Center for Excellence in

		Homes are Specialized Family Care Homes, not foster homes. These homes go through a licensing and training process that is apart from what foster homes go through. "Although, these are private homes, the foster care providers who provide HCBS services in the IDDW work under contract with certified IDDW providers, thus these homes are provider-controlled setting." -- I do not know of any IDDW agencies that contract with SFC Providers (not "foster care providers"). The majority of SFC Providers provide HCBS services through PPL with some providing services through traditional agencies. These are not "provider-controlled settings". These settings are the responsibility of WVUCED and the assigned Family-Based Care Specialist. Page 19. Action Item. "5. Prepare a list of SFC Homes that met the Specialized Family Care provider owned or controlled residential requirements, those that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings West Virginia chooses to submit under CMS heightened scrutiny. The list will be distributed to provider agencies and posted to the website."	Disabilities to find, develop, certify and monitor these foster homes. WVDHHR has several different types of foster homes, each with its own policy and requirements. Change. This sentence has been changed to: The SFC homes are private homes, however, the foster care providers are either employed or contracted by IDDW Agencies through the Traditional Model or the member (or personal representative/legal guardian) chooses to self-direct through the Self-Directed Model. Through either model, the setting is owned or leased by the SFC provider, not the member, and thus is defined as a provider-controlled setting. Not every SFC home provides HCBS services. The Specialized Family Care Program Policy manual was updated on March 15, 2022, to include specific references to the Integrated Settings Rule. Change. Prepare an internal list of SFC Homes that met the provider owned requirements and an internal list of the SFC Homes that did not meet the provider-controlled standards. Remediate any homes that do not meet standards. If homes cannot be remediated, then begin transfer of members to approved settings. Notify CMS of any homes that need heightened scrutiny.

		--"...and settings West Virginia chooses to submit under CMS heightened scrutiny." This is confusing. Is this perhaps an incorrect copy and paste? Also, "The list will be distributed to provider agencies and posted to the website." Was this done? I don't recall there being a list of SFC Homes that was distributed to provider agencies or posted to the website. There is an end date of 2019. If this was not done, does this mean that the end dates for all these items do not designate when the activity was completed? Page 133. Specialized Family Care Room & Board Agreement. Room and Board Payments Section. "The current Room and Board amount as established by the Medley Management Team and is subject to change as determined by the Medley Management Team and under the authorization of the WV Department of Health and Human Resources. As of October 1, 2019 the established Room and Board rate is $18.25 per day and is due and payable on the first (1st) day of the following month and covers the provision of food and shelter including housekeeping supplies, general hygiene supplies, maintenance and operation of the home and grounds, including home utility costs. Not included is cable in the Person in Placement's bedroom, specialty items such as	Change This item has been corrected to $18.75 which was effective 01/01/2022 and the most current Room and Board Policy has been placed in the STP plan in Appendix M.

		a specific name shampoo, colognes, etc. that may be desired by the person in placement, also incontinence laundry and associated costs. Costs that are directly related to and for the benefit of the Person in Placement are the responsibility of the Person In Placement. There is no security deposit required, but a PIP may be asked to pay for damages they cause to the home or the provider's personal property." -- The actual room and board rate should not be included in this statement, as it is updated periodically. Page 136. Residential Site Review. Type of Setting. "Specialized Family Care Home (foster home)" -- Why is it necessary to designate the Specialized Family Care Home as a foster home? "Individuals in placement, if adults, pay a room and board rate established by the state which is currently $17.50 a day, for children the state provides a foster care stipend of $600 per month." -- Room and board rate is outdated. Specific amounts should not be included as these change.	No Change The STP needs to be as accurate and current as possible, but may be updated as needed. No Change The Specialized Family Care Homes are foster homes. Change The Room and Board rate has been changed to the current amount of $790.00 per month. The STP needs to be as current and accurate as possible but may be updated as needed.

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5	07/05/2022	Good morning I want to provide some waiver feedback based on my experience as a parent and what I have seen as well. First, thank you for the program as it allow us to invest more in our son and provide for his needs and some meaningful and growing experiences. Currently, I am 'employed' by an agency as a family provider. I work with my son and provide training and social experiences. For example, he wants to go to the store and we have him scan a small amount of things and give him the credit card. It is hard for him, but with a little help, he can be successful. The feedback I want you to consider is rooted on the fact that families and caregivers have a lot of stress and in some cases must focus every little bit of attention to the person with disabilities. My son, for example suffers for severe OCD and requires eyes on him or constant interaction. He can spend all night without any sleep and that leaves everyone tired.	NC – Thank you for your comments, however, your comments are on the actual Intellectual/Developmental Disability Waiver which is not out for public comment. What is out for public comment is the WV State-wide Transition Plan which is WV's response to the CMS Integrated Settings Rule which mandates that all services paid through the Home and Community Based Programs are providing in settings that are integrated in the community and meet basic rules and standards set forth by CMS. The IDDW policy manual will be put for public comment sometime this year and comments related to changes in that policy will be accepted at that time.

		Some of the required paperwork just seems like busywork that does not serve a clear purpose. In this, the program has improved since paperwork used to required a record of training results for every 15 minutes of work. Further improvements can be accomplished by realizing that micromanagement does not result in better quality of treatment for the client. Rather, if the caregiver is overwhelmed by paperwork, less focus will be placed on the client. Specifically, the transportation log requires information that hard to track. Why does the form (WV-BMS-I/DD-7) require odometer reading before and after every trip? Having this information does not ensure more accuracy or honesty. However, the program only allows for a certain amount of miles to be charged per year, so the limits placed on the program should be enough. Another point with the miles is that a person can drive from point A to B to C. But the program seems to frown upon anything other than driving from A to B and from B to A. Then, drive from A to C and from C to A. Keeping track of where I went exactly can be overwhelming. Another small simplification would be to have a round trip check box just so that one does not have to write each address twice for a round trip.	

		Furthermore, our home is near the border of 3 states and my son's school is way more than 30 miles from the WV border. Having a limit of just 30 miles from the state border puts a lot of limits on where we can take our son. He likes variety. He loves being in the car and we can easily drive over 300 miles in one weekend. Only a limited amount of them would qualify. However, he has plenty of miles left on his budget. Why not let me reach the limit on miles without putting so many restrictions. For me, in an ideal world, I would just get the check for the allowed miles or keep a more general record of where we went. Families deserve a little privacy in this matter. People that know us know that we put a lot of effort to take him out as much as possible and he often picks where to go. At least two drives per day is what he likes. Another comment I have is regarding the agency. I have been with the same agency for a handful of years. In the next few months, I will be forced to pick another agency because of the new rule called Conflict Free Case Management. Why? Who benefits by this rule? Seems to be an idiotic rule made up by a person that has no clue how hard it is to keep up with all the paperwork. Please do not make me change agencies. Have a little bit more trust	

		in the agencies that you approve for this program. RESPITE: I used to hire college students and the respite money was wonderful when my son was young. Now that he is an adult, the money paid is not enough to attract any quality person to do a hard job with some crisis moments. I wish that there was a way of paying them double even if the budget remained the same. That is, maybe the agency or the parent could have more flexibility on the pay that respite got even if there was a limit on the total amount of money. I can no longer have respite because of this. If there was a category to pay someone with more education or training that would be helpful. Often, service jobs in food or grocery pay more and are less stress without behavior problems. I would like to hire a private teacher to teach a handful of things, but there is no category for this. Also, there are some promising therapies where communication is the focus, but there is not category for hiring people with more training to my knowledge. I think the MD waiver may have a category for people that provide respite but have higher training. Finally, I like the idea of having a more informal training programs for my son. That is, I teach him what he needs with the help of the	

		professionals but without having to keep track of data. I am a mom and data has its place, but not in the home where one person does it all. I want to submit honest, orderly paperwork. Please make it easy to do so. Thank you for the Waiver Program and for considering my input. Mom of an autistic teen.	
6	07/15/2022	Disability Rights of West Virginia (DRWV) is the federally mandated protection and advocacy (P&A) system for the state of West Virginia. As the P&A, DRWV has a heightened interest in all settings in which individuals with disabilities receive services, including settings where individuals receive home and community-based services. DRWV has reviewed the sixth iteration of the West Virginia Statewide Transition Plan and have noted our comments/concerns as follows. **Page 4, in the Introduction, in the third paragraph, it references the IDDW program as "Individuals with Intellectual and/or Developmental Disabilities Waiver."** DRWV recommends that the name be changed to "Intellectual and Developmental Disabilities Waiver," as referenced in Chapter 513.	Change – This is an error and has been corrected.

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		Page 12, the fourth bullet and the second sentence states, "…some IDDW services are providing in Specialized …" DRWV recommends changing the word "providing" to "provided."	Change – This is an error and has been corrected.
		Page 14, TBIW settings, states "All TBIW members were surveyed to determine if the member resided with a paid unrelated caregiver. No TBIW member resided with an unpaid care giver." DRWV understands that there are not any existing members that reside with a paid unrelated care giver. DRWV recommends clarification on BMS' plans to continue to monitor this issue in the future. Does CMS expect there to be a plan to address new members coming onto the program and/or situations/living settings that may change for existing members?	No Change – Annually each TBIW member will be surveyed to determine if they reside in a member-controlled or provider-controlled setting and a survey will be completed depending on what type of setting it is.
		Page 14-15, Conflict of Interest Standards, "The ADW, IDDW and TBIW programs include guidance that prevents entities and/or individuals that have responsibility for service plan development from steering the provision of direct care waiver services to the agency that is responsible for service plan development. The current language for the TBIW, IDDW and ADW programs meets the requirements of CMS." DRWV has concerns regarding how these safeguards are assured. There are still issues that	No Change – Conflict Free Case Management was put on hold due to the pandemic but beginning in January 2023, all members will be required to receive case management from an agency that is independent from other agencies serving the member. If anyone discovers that members are not being given a choice of all available agencies, then BMS would like to be notified so the situation can be researched and remediated.

		exist between provider agencies where individuals participating in the programs are influenced toward a provider. **Page 27-28, Initial Provider/Setting Reviews, states "At the time of the Provider Survey BMS had implemented a 4-bed maximum ruling for licensed residential homes under the IDD Waiver. There were 11 homes which had been approved and licensed prior to this ruling. These homes were 'grandfathered' as they had more than the 4-bed maximum but were otherwise in compliance. They were reviewed in the same manner as the other homes. They were not required to decrease their bed capacity."** DRWV has provided ongoing advocacy for approximately eight years to individuals who reside at XXXX. . It is DRWV's experience that the members residing at XXXX have not and do not have full access to the community as required by HCBS standards. **Page 29, Aged and Disabled Waiver, "At a later date (March 2023), BMS discovered there were 9 ADW members who were residing in the home of their paid unrelated caregiver."** DRWV questions the date of March 2023 as being correct. **Page 30, Member Controlled Settings, states "Any member residing in a setting that does not**	No Change – BMS will continue to monitor any of the homes where more than 4 individuals reside and take steps to ensure individuals have full access to the community. If you know of specific situations where individuals do not have full access to the community, then BMS would like to be notified. Furthermore, BMS cannot comment on individual settings that are under review and/or investigation. Change – This date has been corrected to 2022.

		meet these standards will be referred to their case management agency for remediation to attempt to attain compliance." DRWV understands that Case Management agencies will assist members in transitioning to a new setting. However, DRWV recommends that BMS take an active role as the single State agency responsible for administering the IDDW program. **Page 30, Provider-Controlled Settings, states "Provider-controlled settings are settings where member resides with a paid unrelated caregiver or with an agency provider who provides HCBS services the majority of the day. "… All provider-controlled settings and members who receive services in these settings will be evaluated at least annually by BMS or its designee to ascertain that the setting continues to exhibit the characteristics of a provider-controlled setting and that the setting meets the standards as described below:"** DRWV has listed standards that are not being followed at XXXX: **"The setting was selected by the individual."** **"The individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCBS services."**	Change – This sentence has been changed to read: Any member residing in a setting that does not meet these standards will be referred to their case management agency for remediation to attempt to attain compliance. These remediation attempts will be monitored by BMS and assistance provided if needed.

		"The individual chooses and controls a schedule that meets his/her wishes in accordance with a person-centered plan. " **"The individual chooses when and what to eat."** **"The setting does not isolate individuals from individuals not receiving Medicaid HCBS in the broader community."** **"Individuals have full access to the community."** **"The setting is an environment that supports individual comfort, independence and preferences."** DRWV's extensive advocacy at XXXX has shown that individuals residing at XXXX who receive HCBS, do not participate in unscheduled community activities, and have limited access to scheduled community activities, members are not employed, meals are prepared and served at scheduled times without individual choice. Members have limited to no access to shopping. Members appear to be isolated from the broader community. DRWV has provided advocacy services to individuals who were forced to move into XXX. The individuals previously received HCBS/IDDW services in their ISS setting from XXXX. When XXX was no longer able to staff the ISS setting, the	No Change - BMS cannot comment on individual settings that are under review and/or investigation. Anyone who observes the following standards not being met should report to BMS, Office of Health Facility Licensure and Certification or WV Adult Protective Services depending on the level of health and safety concerns observed.

		individuals were forced to move into XXXX. Individuals residing at XXXX are not always able to receive the individualized supports and services they need or as they are documented in their service plans. There is an existing practice at XXXX that staff document ratios/codes that are not included in the IDDW manual for residential services (1:5-6). This practice creates not only individual safety concerns it prevents members from having staff available to assist members with their personal needs/interests etc. DRWV recommends that XXXX be reviewed/considered for heightened scrutiny. **Page 31, Provider-Controlled setting, states "Any provider-controlled setting that does not meet these standards will be referred to BMS or its designee for remediation to attempt to attain compliance. If the setting cannot be remediated to meet all of these standards, then the setting will removed from approved provider listing and the member(s) will be referred to transition to an approved setting."** DRWV agrees with this process; however, BMS needs to enforce this process for all Provider-Controlled settings that are not in compliance. Typo noted in the second sentence. It should read "… then the setting will **be** removed…"	No Change – Once the STP is approved by CMS, then BMS will apply the process for all Provider-Controlled Settings that are not in compliance. Change – The sentence has been corrected.

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		Page 31 continued, Provider Controlled Settings, "It is the responsibility of the agency to notify BMS within 15 days of any change in status, i.e., sites are added or removed. BMS or its designee makes a site visit to each new site and conducts a review using the same review tool found in Appendix L, Attachment 2 to ascertain that the site is in full compliance before any HCBS services are provided in that site." DRWV questions how will this 15-day requirement be monitored and enforced by BMS? Additionally, what is the timeframe for BMS to complete a review of these sites? **Page 31-32, Heightened Scrutiny Overview, states "All settings where Waiver services are provided have been evaluated through the Setting Review Process for each respective Waiver and all provide integration into the broader community."** DRWV asserts that XXXX are not operated as an IDDW group home. Their operation appears to be more like an assisted living facility which is not compatible with HCBS. DRWV recommends that XXXXX be placed on heightened scrutiny. DRWV does not think XXXX meets HCBS characteristics. **Page 32-33, Transition of Members Overview**	No Change – Any sites owned or leased by providers will be licensed through Office of Health Facility Licensure and Certification and should be reported to BMS. Any sites operated by the agency will be more difficult to track,but will be identified on an annual basis when member reviews are completed. BMS completes site reviews annually as scheduled. Case Managers should also inform BMS if a member on their caseload moves to a new site. No Change - BMS cannot comment on individual settings that are under review and/or investigation. Anyone who observes the following standards not being met should report to BMS, Office of Health Facility Licensure and Certification or WV Adult Protective Services depending on the level of health and safety concerns observed.

		This information addresses the general process for the providers and the ASO to handle member transfers when a setting disenrollment occurs. BMS may want to consider increasing the emphasis on ensuring member inclusion and active participation in the process. **Page 33-34, Building Capacity for Increased Non-Disability Specific Setting Access** This section references the impact of the Hartley and Medley Consent Decrees to the service delivery system by, giving individuals choice in where they want to receive person-centered services within their communities. Additionally, this section acknowledges that smaller, integrated settings are more beneficial than larger, segregated, institutional settings. However, it is important for DRWV to note the lack of BMS' enforcement of their own IDDW policy to ensure these standards are met. Members participating in IDDW services frequently end up being long-term patients at psychiatric facilities due to the IDDW providers being allowed to discharge members from services without a viable IPP as required in the manual. This has created an overabundance of IDDW members being unnecessarily institutionalized and prohibiting community integration. This again prevents these individuals from receiving HCBS services.	No Change – The STP provides for notification of the member in a timely manner taking into consideration that considerable remediation efforts have occurred prior to the decision to close the site and transfer the member to an approved site or dis-enroll the member from the HCBS program has a 90-day timeframe. No Change – The Covid 19 pandemic has created a unique situation never before experienced in the HCBS program whereas direct care staff positions are not being filled and existing sites cannot hire enough staff, let alone create new sites for individuals because this creates a need for even more staff. There is no way to force agencies to hire staff when applicants do not apply or are not employable. This is not just an HCBS problem, and it is not just a WV problem, but is national problem. We understand that even professional organizations like Disability Rights of WV has had difficulty hiring professionals to fill existing and new positions. WV has raised direct care rates in an attempt to allow agencies to attract more applicants. With almost 6,000 members on the IDDW, BMS can state that the vast majority of members are not long-term patients in psychiatric facilities. There is a very small percentage (.005%) who frequently have mental health problems and are hospitalized due to mental health issues. It may appear that the percentage of IDDW individuals in long-term psychiatric facilities is higher than ever before, but it just appears that way because there are more individuals on the IDDW program now due to the additional of more slots.

		Page 43-44, Recommendations/Areas of Potential Noncompliance, bullet 4 states, "The State code for the IDDW nor any other document reviewed mentions that participants living in licensed behavioral health centers have access to the following elements required in the HCBS regulation." DRWV agrees that the identified elements are missing and should be included in the STP as they are HCBS requirements. • **Page 44, Plan or Care Requirements for Modifications or Restrictions of a Participant's Rights** DRWV is aware of numerous situations where an individual's rights have been violated by providers going to the most intrusive or restrictive measure without trying less restrictive options. DRWV recommends that the requirements of the HCBS rule be incorporated into the statewide transition plan and documented in member service plans. **Page 45-47, Recommendations/Areas of Potential Non-Compliance.** DRWV also agrees with these recommendations.	The percentage has remained stable over the past 20 years. No Change – The elements are currently in the STP. Change – These requirements are already in the Statewide Transition Plan and will be added to the member service plans.

		Page 88-89, Section 9, Heightened Scrutiny, if Necessary, states "There may be times that a provider meets the criteria of a "Presumptively non-HCBS setting" and is presumed to have the qualities of an institution. This could occur even when the BMS review has found otherwise. BMS will submit evidence to CMS regarding this provider if the state determines, through its assessments, that the setting does have qualities that are home and community-based in nature and does not have the qualities of an institution. This evidence will include State and other stakeholder evidence. BMS will cooperate with CMS as CMS determines whether the setting is a non-HCBS Setting. BMS will act on the CMS determination. At present, there are no settings meeting these criteria." Based on information that DRWV has collected it appears that XXXX would be a setting that meets the criteria of heightened scrutiny. **DRWV general comments:** Public Comment Period Length of Time: There are many tasks that can be adequately completed within 30 days, it is not enough time to provide a meaningful public investigation of the settings which are subject to heightened scrutiny, much less review and comment on those settings. Statewide Transition Plan: The 151-page document is not easy to follow. It appears to be	No Change - BMS cannot comment on individual settings that are under review and/or investigation. Anyone who observes the following standards not being met should report to BMS, Office of Health Facility Licensure and Certification or WV Adult Protective Services depending on the level of health and safety concerns observed.

		prepared and presented in a manner that is difficult for the general public, families and persons participating in the programs to easily understand. Thank you for considering DRWV's comments. If you have any questions or concerns regarding the above comments, please contact me at 304-346-0847 or via email at sgiven@drofwv.org.	No Change –The Centers for Medicare and Medicaid require at least 3 forms of public comment for a period of 30 days and BMS has complied with that requirement. Change – The document has been reorganized and the Phases have been labelled to make it easier to understand. BMS has answered any questions received from stakeholders.
7	0715/22	The WV Developmental Disabilities Council offers the following comments for consideration as the Department of Health and Human Resources (DHHR) works toward final approval of the State Transition Plan (STP) for Home and Community Based Services (HCBS) and settings. The Council reviewed this Plan, once again, in respect to achieving the intent of the Centers for Medicare and	

		Medicaid (CMS) that the Final Rule is to ensure that individuals receive long-term care services and supports through home and community based service (HCBS) program under the Medicaid (waiver) authoritie; have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate; and to enhance the quality of HCBS and provide protections to the participants. The Council expresses, again, its concern that the Bureau for Medical Services (BMS) has not shown effort to educate and inform people with intellectual and developmental disabilities who are affected or potentially affected by the HCBS Rule and the State Transition Plan (STP). Based on our contacts with families, we believe people with IDD and their families are generally unaware of the STP, its intent, and the process for developing it.	No Change, however, a training is being developed for case managers, but may be used by members, families and legal representatives if they desire. This training will be available by 2/1/2023 and case managers will be required to take the course and pass it with 80% competency level. A digital educational tool is being developed for members, families and legal representatives and will be available by 2/1/2023. This document will be available on the webpage and available to anyone and case managers will be able to download it and share it during home visits with the members/families/legal guardians.

Comments for WV Statewide Transition Plan

Effective Date: 7/25/2022, Revised 09/21/2022, Revised 1/08/2023

		The Council has concerns about public and stakeholder engagement throughout the transition plan process. BMS has continued to indicate that public forums were not well attended because they were not well advertised. In fact, for the sixth iteration, no public forums were held due to a global pandemic but a virtual forum could have been held. However, on page 4 the plan states that West Virginia worked with the various providers, members, guardians, and other stakeholders engaged in HCBS to implement the proposed transition plan. While families could provide public comment from June 14, 2022, to July 15, 2022, public comment is not public and stakeholder engagement. The Council suggests in the future that information is sent to people with intellectual and developmental disabilities and their families. The BMS does have mailing addresses for all members who receive HCBS.	No Change. – CMS required 3 forms of public comment for a 30 day period and BMS complied with that requirement and went a step further asking Case Managers to share the information with families and members. The flyer that the case managers were asked to share with members also included a telephone number for anyone without internet access to call and request a hard copy be mailed to their home. About 1/3 of the comments received were from members/family members/legal representatives. Each waiver program has a Quality Improvement Advisory Council which is comprised by at least 1/3 member/family stakeholders. Prior to any public comment period, BMS will ensure that a notice is sent to the QIA members for comments and suggestions, including how to involve other stakeholders.

		We have previously commented that we have not been able to find several items mentioned in the plan as being on the BMS website. What is available is minimal. There are still documents mentioned, yet not found on the website. West Virginia continues to be unique in its plan compared to other States who have received final approval. WV has very little narrative compared to the number of appendices. Due, inpart to this, the plan is not easy to read or to understand. An example is page 12 discusses Specialized Family Care Policy and references Appendix N. Appendix N is missing in this iteration. However, the information that the plan is discussing is in Appendix M. The DD Council appreciates that BMS indicated they will work to modify state rules to indicate that settings options are discussed and included in the person-centered plan used by the licensed	No Change – Please contact BMS if you are unable to find specific items mentioned in the plan. Change – This has been corrected.

		Behavioral Health Centers, and this will be identified in Appendix B. We cannot find any mention of person-centered planning in this appendix. The Council believes that person-centered planning done correctly is not only beneficial, it is crucial in order for people intellectual and developmental disabilities to have choice and control in their lives. The DD Council is specifically listed as a responsible party on the last area mentioned pertaining to employment. The Council has made suggestions to BMS regarding employment, including in the last set of public comment on the IDD Waiver renewal, but the suggestions have not always been included in the program. We have previously commented and reiterate the Council's concern about the lack and types of training required for staff who provide direct care and employment-related services. We have suggested specialized training along with an enhanced	No Change – Person-centered planning is the foundation for all HCBS members. Only one of the HCBS programs (IDDW) is licensed by the Office of Health Facility Licensure and Certification and only that waiver is required to follow the Legislative Rule for Behavioral Health Centers Licensure. For this reason, the requirements for person-centered planning are embedded in each of the waiver policy manuals, however, Section 5.1.1.b of 64CSR11 does state: "A consumer shall have rights including, but not limited to…The right to an individualized, written treatment plan to be developed promptly after admission; treatment based on the plan; periodic reviews and reassessment of needs; and appropriate revisions of the plan." A plan that is individualized is person-centered. No Change because no specific comments were made on the draft that was posted. If you have specific comments you would like to make, please send them to BMS as soon as possible.

		reimbursement rate should be established in recognition of a higher level of expertise. Finally, the Council recommends that materials and training be developed for service coordinators and others to assist people with developmental disabilities and their families to clearly explain and understand the purpose of STP and how they may be affected. Thank you for the opportunity to provide comments about our concerns about this process.	No Change because no specific comments were made on the draft that was posted. If you have ideas about specialized training on employment-related services, please send these to BMS as soon as possible. Currently the rates for employment related services were increased by 50% in October 2020 and will continue at this increased rate until the Spring of 2023. No Change, however, this is already being done through in collaboration with West Virginia University and as mentioned before, will be available to members/family members/legal representatives.