SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

November 17, 2016

The South Carolina Commission on Disabilities and Special Needs met on Thursday, November 17, 2016, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:
Bill Danielson, Chairman
Gary Lemel – Secretary
Mary Ellen Barnwell – Via Teleconference
Sam Broughton, Ph.D.
Katie Fayssoux

Absent:
Eva Ravenel, Vice Chairman
Vicki Thompson

DDSN Administrative Staff
Dr. Buscemi, State Director; Mr. David Goodell, Associate State Director, Operations; Mrs. Susan Beck, Associate State Director, Policy; Mr. Tom Waring, Associate State Director, Administration; Mrs. Tana Vanderbilt, General Counsel (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests
(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)
(See Attachment 2 Sign-In Sheet)

Georgetown County DSN Board
(See Attachment 3 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)
(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board (via videoconference)
(See Attachment 5 Sign-In Sheet)

Whitten Regional Center (via videoconference)
(See Attachment 6 Sign-In Sheet)

York County DSN Board (via videoconference)
(See Attachment 7 Sign-In Sheet)

Jasper County DSN Board (via videoconference)

News Release of Meeting

Chairperson Danielson called the meeting to order and Commissioner Lemel read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

The Commission adopted the November 17, 2016 Meeting Agenda by unanimous consent. (Attachment A)

Invocation

Chairman Danielson gave the invocation.

Approval of the Minutes of the October 20, 2016 Commission Meetings

The Commission approved the October 20, 2016 Commission Meeting minutes by unanimous consent.

Public Input

The following individuals spoke during Public Input: Ms. Deborah McPherson, Dr. Gerald Bernard and Mr. Jerry Mize.

Commissioners' Update

Commissioners Fayssoux spoke of an event in her district.

State Director's Report

Dr. Buscemi reported on the following:

Employee Bonus for Hurricane Matthew –employees of the Regional Centers and Autism Division who worked during Hurricane Matthew as identified by the Centers are to each receive a $150 bonus. There was a total of 254 employees with a total amount of $38,100. Employees will receive the bonus in their December 16, 2016 paycheck.

SIG Recommendations Implementation Update – Dr. Buscemi will be presenting to the Adult Protection Coordinating Council next week on the SIG report. A meeting with other agencies involved in the statewide ANE process has been scheduled for November 28, 2016. DDSN and DHHS have begun

discussion on options for enhancing the quality assurance processes tied with Medicaid to focus more on service outcomes in compliance with the SIG recommendations. However, this will be a long process measured in years, not in months.

Linkhorn Case – The SC Supreme Court ruled yesterday that only persons who the agency finds have an intellectual disability, which occurred in the developmental period or a related disability, which occurred before the age of 22 can be involuntary committed to the jurisdiction of SCDDSN. The court ruled that an individual with a head injury or a spinal cord injury can only be voluntarily committed to SCDDSN. These holdings were based on the agency's statutes.

One-time funds for Workforce Initiatives and DOL Compliance – Notifications will go to providers before Thanksgiving and the awards will be made in December.

Governor's Proclamation – Birth Defects Awareness – Dr. Buscemi thanked the Governor for proclaiming January 2017 as Birth Defects Awareness Month. (Attachment B)

ABLE SC PIE (Partnership in Employment) grant – SC Employment First Initiative – The SC disability Employment Coalition, through collaboration with ten Project Partners, will establish the SC Employment First Initiative to address barriers to competitive, integrated employment for young adults with intellectual and developmental disabilities.

Tri-Development Day Supports Center – Dr. Buscemi visited the newly opened Day Supports Center located in Beech Island. During the recent hurricane, it was used as an evacuation site for Beaufort.

UCP Award – Dr. Buscemi recently attended an event hosted by UCP. DDSN was presented with a Community Partnership Award.

Finance and Audit Committee Update

Committee Chairman Lemel gave an update of the Finance and Audit Committee meeting that was held prior to the Commission meeting. The Committee reviewed the FY16 audit activity as well as the FY17 audit plan. It was discussed on what steps can be taken to better close the loop on audit reports. The succession plan was discussed ensuring that something needs to be in place when the time comes for longtime audit employees to retire. As a result of the October Senate Finance Subcommittee meeting, the Committee is looking at standards of what information will be sent out and will consult with providers and legislative staff on setting these standards.

SC Transition Plan/Final Rule Expectations

Mrs. Beck gave a status update on the SC Transition Plan. The plan was first submitted to CMS February 26, 2015. The initial approval of plan by CMS was received on November 4, 2016. The next step is the final approval of the plan by CMS. The final compliance date is March 17, 2019. DDSN will continue to review, revise and finalize policies for compliance with HCBS Final Rule. The RFP for site review for all DDSN residential and day settings should be awarded January 1, 2017. Dr. Buscemi spoke of the upcoming meetings with providers to discuss changes in the Service authorization Plan Review process. Dr. Buscemi spoke about how conflict free case management is related to the HCBS Final Rule. She stated she received a letter signed by both provider groups addressing their concerns. DHHS is forming a stakeholder group to address the issue. (Attachment C)

Waiting List Reduction Efforts

Mrs. Beck presented information on the Waiting List Reduction Efforts. She stated that there has been a reduction in the length of time that an individual is on the ID/RD Waiting List since the project began, however, the number of individuals on the Waiting List is increasing. It is expected that the ID/RD Waiver renewal will be approved in January. Dr. Buscemi added the agency will begin attrition related to the movement of slots for the ID/RD Waiver next week. Mrs. Beck also stated that there has been a lot of movement in the CS Waiver. The CS Waiver renewal process is beginning for renewal in July 2017. (Attachment D)

DDSN Intake

Dr. Buscemi reported that sixty providers have submitted their proposals to the DDSN RFP for Intake with ten providers that have incomplete proposals. The State Procurement Office will work with DDSN to roll in the providers as they fully complete their proposals. Dr. Buscemi made the recommendation that DDSN proceed with decentralizing intake on December 1, 2016. On motion of Commissioner Broughton, seconded and passed, the Commission approved to move forward with decentralizing Intake on December 1, 2016.

Strategic Planning Update

Dr. Buscemi gave a detailed update of the goals and actions taken of the Strategic Planning which included Crisis Management, the Waiting List Recruitment and Retention of Qualified Employees, Oversight of Providers, Communication between DDSN and its Stakeholders, Provider Support, and Intake Process. In regards to Recruitment and Retention of Qualified Employees, Dr. Buscemi stated that the agency has requested a change in legislation to allow providers to begin new employee orientation prior to the background check being received. Dr. Buscemi requested it be noted that employees in orientation cannot have contact with vulnerable adults prior to the receipt of the criminal background checks.

QA Process/Incident Management Reporting

Mrs. Beck provided a detailed presentation on the QA Process and Incident Management Report. It is important that DDSN and providers close the circle of any investigation as well as to ensure the same incidents do not continue. (Attachment E)

LAC Recommendations Implementation Update

Dr. Buscemi spoke of the document that was provided showing actions that have been taken on the LAC recommendations. Discussion followed regarding No. 26 Recommendation holding the DSN boards accountable for their fiscal management. It will be a challenge, as DDSN does not have authority to assign members to the individual county DSN boards. Dr. Buscemi stated that DDSN will continue to take action on addressing the recommendations. (Attachment F)

DDSN Residential Development

Mr. David Goodell provided information addressing the growing number of individuals with significant behavioral needs who require residential services. Only a few of the existing community service providers have agreed to develop new services to support them, as this population is very challenging. This issue warrants DDSN to develop community residential services to support these individuals. Discussion followed. Commissioner Lemel made the motion to approve the outline presented by David Goodell to develop up to six directly operated residential homes and if there is any increase in the number of homes or any other changes, it is to be brought back to the Commission. The motions was seconded and passed.

NASDDDS Directors Forum Information

Dr. Buscemi gave an update on the NASDDDS 2017 Directors Forum & Annual Conference she attended last week in Crystal City, Virginia where many discussions centered around the current administration and what actions the newly elected administration will likely take.

Financial Reports

Mr. Waring gave an overview of the agency's financial activity through October 31, 2016 and the agency's current financial position. The agency's operating cash balance as of October 31, 2016 is $148,119,005. Also, a SCEIS report reflecting budget verses actual expenditures through October 2016 was provided. Mr. Waring shared an analysis of expenditures of the Regional Centers from July 1, 2016 through September 30, 2016. Mr. Waring provided an Analysis of Funding per the Appropriations Act for the Greenwood Genetic Center and Autism family Support Services. (Attachment G)

Executive Session

On motion of Commissioner Fayssoux, seconded and passed, the Commission entered into Executive Session to discuss a contractual matter regarding Channel the Beacon.

Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

December 15, 2016

Submitted by,

Sandra J. Delaney

Approved:

Commissioner Gary Lemel
Secretary

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS

Commission Meeting

November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) Name and Organization

1.	CHUCK NORMAN	DDSN
2.	Lisa Weeks	DDSN
3.	Ben Orner	DDSN
4.	Deborah & Heather McPherson	Richland County
5.	Marty Rawls	DDSN
6.	Suzanne Johnson	Coastal Center parent
7.	Richard Johnson	" " "
8.	Gerald Bernd	Charles Lea Center
9.	Tracy C Mize	Oconee DSN
10.	Mary Leitner	Richland DSN Bd.
11.	Joe White	Cherokee Co. DSNB
12.	Julie Cook	DHHS
13.	Jennifer Robinson	DHHS
14.	Evelyn Turner	Charleston.
15.	KATHLEEN TANNER	WCPC + SCPADD
16.	Rayhan Miller	SC DDC
17.	Shannon Bethune	SC DDC
18.	Alonnor Schulin	Aging with Flair
19.	Bob Toney	Newberry DSNB
20.	Nancy McCormick	P+A

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS

Commission Meeting

November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) Name and Organization

21.	Melinda Moore	The Arc of the Midlands
22.	Mike Bell	Arc Midlands
23.	Mike Keith	Marion-Dillon DSN
24.	Phil Clarkson	BIASC
25.	Zenobia Corley	Kershaw County DSN
27.	Shontenna Jett	Kershaw County DSN
28.	Suzanne Hyman	~~Project~~ Project HOPE Foundation
29.	Ann Dalton	SCDDSN
30.	KEVIN JACOBS	"
31.	Sherry Pressley	Lutheran Svcs. Carolinas
32.	Angela Rodriguez	SC Spinal Cord Injury Assoc.
33.	Dan Reamy	CCBDSN
34.	Ralph Courtney	Aiken DSN/B
35.		
36.		
37.		
38.		
39.		
40.		

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS
Commission Meeting
November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) **Name and Organization**

1. Gloria M. James — Bamberg DSN Bd.
2. Susan Todd — Path Finders
3. Felita Martino — Dist II office DDSN
4. Hester S. Wannamaker — SDII
5. Ronda Ritchie — Dist II Office
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS
Commission Meeting
November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) **Name and Organization**

1. Elizabeth Krauss Georgetown DSN
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS
Commission Meeting
November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) **Name and Organization**

1. Deborah K. Smith — DDSN - DISTRICT II
2. Susan L. John — Horry Co. DSN
3. John Hitchman — SCDDSN
4. Allan Cornell — Horry County DSN
5. Ryan Way — Clarendon Co DSN
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS
Commission Meeting
November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) Name and Organization

1. Elaine M. Thena — PCBDSN
2. Tyler Rex — ACDSDB
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS
Commission Meeting
November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) **Name and Organization**

1. John King — SCDDSN
2. Pat Fagan — SCDDSN
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS
Commission Meeting
November 17, 2016

Guest Registration Sheet

(PLEASE PRINT) **Name and Organization**

1 21. Mary Pack

22.

23.

24.

25.

27.

28.

29.

30.

31.

32.

33.

34.

35.

36.

37.

38.

39.

40.

Attachment A

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina

November 17, 2016 **10:00 A.M.**

1. Call to Order — *Chairman Bill Danielson*
2. Welcome - Notice of Meeting Statement — *Commissioner Gary Lemel*
3. Invocation — *Commissioner Eva Ravenel*
4. Introduction of Guests
5. Adoption of Agenda
6. Approval of the Minutes of the October 20, 2016 Commission Meeting
7. Public Input
8. Commissioners' Update — *Commissioners*
9. State Director's Report — *Dr. Beverly Buscemi*
10. Finance and Audit Committee Update — *Committee Chairman Gary Lemel*
11. Business:

    A. SC Statewide Transition Plan/Final Rule Expectations — *Mrs. Susan Beck*
    B. Waiting List Reduction Efforts — *Mrs. Susan Beck*
    C. DDSN Intake — *Dr. Beverly Buscemi*
    D. Strategic Planning Update — *Dr. Beverly Buscemi*
    E. QA Process/Incident Management Reporting — *Mrs. Susan Beck*
    F. LAC Recommendations Implementation Update — *Dr. Beverly Buscemi*
    G. DDSN Residential Development — *Mr. David Goodell*
    H. NASDDDS Directors Forum Information — *Dr. Beverly Buscemi*
    I. Financial Update — *Mr. Tom Waring*

12. Executive Session
13. Next Regular Meeting (December 15, 2016)
14. Adjournment

Attachment B

State of South Carolina

Governor's Proclamation

WHEREAS, folic acid is a B vitamin that helps prevent birth defects of the brain and spine, including spina bifida, anencephaly, and encephalocele; and

WHEREAS, since 1992, the South Carolina Department of Health and Environmental Control, South Carolina Department of Health and Human Services, South Carolina Developmental Disabilities Council, South Carolina Department of Disabilities and Special Needs, Centers for Disease Control, and the Greenwood Genetic Center have worked together through the South Carolina Birth Defects Surveillance and Prevention Program to reduce the rate of neural tube defects in the Palmetto State; and

WHEREAS, this partnership has reduced the rate of neural tube defects in South Carolina from twice the national average to below the national average, earning the South Carolina Birth Defects Surveillance and Prevention Program the 2002 State Leadership Award from the National Birth Defects Prevention Network and the Birth Defects Education and Prevention Award for 2008; and

WHEREAS, the annual observance of Birth Defects Awareness Month acknowledges that most pregnancies are unplanned and encourages women to recognize the importance of taking 400 micrograms of folic acid "every day for someday."

NOW, THEREFORE, I, Nikki R. Haley, Governor of the great State of South Carolina, do hereby proclaim January 2017 as

BIRTH DEFECTS AWARENESS MONTH

throughout the state and encourage all South Carolinians to recognize the partners of the South Carolina Birth Defects Surveillance and Prevention Program for their efforts to reduce neural tube defects in the Palmetto State.

Nikki R. Haley

NIKKI R. HALEY
GOVERNOR
STATE OF SOUTH CAROLINA

South Carolina's Plan - Timeline

- Status Update
  - Feb. 26, 2015: SC Statewide Transition Plan first submitted to CMS
  - Several revisions since then:
    - Sept. 25, 2015
    - Feb. 4, 2016
    - March 31, 2016
  - Most recent revision:
    - Public notice & comment August 17 – October 7, 2016
    - Submission to CMS on October 28, 2016
  - Received "Initial Approval" of plan by CMS on Nov. 4, 2016
    - Systemic Assessment process and changes approved by CMS (even with changes still pending)
    - Settings Assessment not complete; process may require refinement and/or more detail in STP
  - Next step: "Final Approval" of plan by CMS
    - Final compliance date: March 17, 2019

SCDDSN Next Steps

- Continue to review, revise and finalize policies for compliance with HCBS Final Rule
  - Completion of the review is anticipated for January 2017.

- Site Reviews for all DDSN residential and day settings
  - The RFP for the site reviews should be awarded January 1, 2017. The reviews will take approximately 9 months.
  - After the award, DDSN will convene with DHHS and the contractor to provide an orientation on the DDSN system, settings and requirement.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850

Disabled & Elderly Health Programs Group

November 3, 2016

Christian Soura
State Medicaid Director
South Carolina Department of Health and Human Services
PO Box 8206
Columbia, SC 29202

Dear Mr. Soura:

I am writing to inform you that CMS is granting the state of South Carolina **initial approval** of its Statewide Transition Plan (STP) to bring settings into compliance with the federal home and community-based services (HCBS) regulations found at 42 CFR Section 441.301(c)(4)(5)and Section 441.710(a)(1)(2). Approval is granted because the state completed its systemic assessment, included the outcomes of this assessment in the STP, and clearly outlined remediation strategies to rectify issues that the systemic assessment uncovered, such as legislative changes and changes to policy documents, and is actively working on those remediation strategies. Additionally, the state submitted the August 2016 draft for a 30-day public comment period, made sure information regarding the public comment period was widely disseminated, and responded to and summarized the comments in the STP submitted to CMS.

After reviewing the August 2016 draft submitted by the state, CMS provided additional feedback on September 20th and again on October 31st requesting that the state make several technical corrections in order to receive initial approval. These changes did not necessitate another public comment period. The state subsequently addressed all issues, and resubmitted an updated version on November 3, 2016. These changes are summarized in Attachment I of this letter. The state's responsiveness in addressing CMS' remaining concerns related to the state's systemic assessment and remediation expedited the initial approval of its STP. CMS also completed a spot-check of 50% of the state's systemic assessment for accuracy. Should any state standards be identified in the future as being in violation of the federal HCBS settings rule, the state will be required to take additional steps to remediate the areas of non-compliance.

In order to receive final approval of South Carolina's STP, the state will need to submit an updated STP that includes the following updated components:

- Complete a thorough, comprehensive site-specific assessment of all HCBS settings, implement necessary strategies for validating the assessment results, and include the outcomes of this assessment within the STP;

- Draft remediation strategies and a corresponding timeline that will resolve issues that the site-specific settings assessment process and subsequent validation strategies uncovered by the end of the HCBS rule transition period (March 17, 2019);
- Outline a detailed plan for identifying settings that are presumed to have institutional characteristics including qualities that isolate HCBS beneficiaries, as well as the proposed process for evaluating these settings and preparing for submission to CMS for review under heightened scrutiny;
- Develop a process for communicating with beneficiaries that are currently receiving services in settings that the state has determined cannot or will not come into compliance with the HCBS settings rule by March 17, 2019; and
- Establish ongoing monitoring and quality assurance processes that will ensure all settings providing HCBS continue to remain fully compliant with the rule in the future.

While the state of South Carolina has made much progress toward completing each of these remaining components, Attachment II to this letter outlines additional changes that must be resolved to CMS' satisfaction before the state can receive final approval of its STP. Upon review of this detailed feedback, CMS requests that the state please contact Patricia Helphenstine at 410-786-5900 or Patricia.Helphenstine1@cms.hhs.gov or Michelle Beasley at 312-353-3746 or Michelle.Beasley@cms.hhs.gov at your earliest convenience to confirm the date that South Carolina plans to resubmit an updated STP for CMS review and consideration of final approval.

It is important to note that CMS' initial or final approval of a STP solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the *Olmstead* decision is available at http://www.ada.gov/olmstead/q&a_olmstead.htm.

I want to personally thank the state for its efforts thus far on the HCBS statewide transition plan. CMS appreciates the state's completion of the systemic review and corresponding remediation plan with fidelity, and looks forward to the next iteration of the STP that addresses the remaining technical feedback provided in the attachment.

Sincerely,

Ralph F. Lollar, Director
Division of Long Term Services and Supports

ATTACHMENT I.

SUMMARY OF TECHNICAL CHANGES MADE BY STATE OF SOUTH CAROLINA TO ITS SYSTEMIC ASSESSMENT & REMEDIATION STRATEGY AT REQUEST OF CMS IN UPDATED HCBS STATEWIDE TRANSITION PLAN DATED 11-3-16

- **Identification of Compliance Levels for State Standards:** CMS requested that South Carolina provide excerpts and/or summaries from each state standard in the systemic assessment crosswalk that illustrates the compliance status of each standard with the federal HCBS settings rule (i.e., fully comply, do not comply, or silent).

  State's Response: The state has provided a revised STP that provides the language (or a summary of the language) from each state standard that illustrates its compliance status with respect to each federal requirement.

- **Additional Details Regarding State's Systemic Remediation:** CMS requested that South Carolina provide more detail to the descriptions of the changes to be made to its state standards to bring them into full compliance with the federal requirements in the STP. In instances when the reported regulations and policies are non-compliant, partially compliant, or silent with regard to the federal HCBS requirements, the systemic assessment did not fully describe how the current language will be remediated in the new regulations and policies to address the requirement. CMS asked the state to include proposed draft language for each instance. For example, CMS asked the state to indicate that the South Carolina Department of Disabilities and Special Needs (SCDDSN) Residential Habilitation Standards will ensure that no waiver providers are exempt from complying with the Americans with Disabilities Act (ADA). CMS also asked the state to include language showing how they remediated areas of non-compliance for Community Residential Care Facilities (CRCFs) related to resident access to lockable doors, and the development of house rules that may be more restrictive than the federal settings requirements.

  State's Response: In response to CMS' request, South Carolina added the language that the state expects to use to modify existing state standards or that already exists in state standards for compliance with the federal requirements throughout the systemic assessment. For example, the state has indicated that SCDDSN Residential Habilitation Standards and SCDDSN Directive 700-02-DD require all settings to comply with the federal ADA regulations. Additionally, the state has clarified that CRCFs are not allowed to implement house rules that are more restrictive than the federal settings requirements. Residents of CRCFs will also have access to lockable doors per SCDDSN Residential Habilitation Standards. The state has also indicated that CRCFs have their own house transportation which is used by beneficiaries if they do not have their own vehicle. These vehicles are used in the same manner as any other private residence with private transportation, (i.e., to run errands, attend various appointments, participate in community events, go out to eat, etc.)

- **Provider Owned and Controlled Non-Residential Settings:** CMS asked the state to ensure individuals experience these settings in the same manner as individuals who do not receive Medicaid HCBS in provider-owned and controlled non-residential settings.

  State's Response: In response to CMS' request, South Carolina included remediation language indicating that individuals receiving HCBS in non-residential settings should experience all provider owned controlled settings in the same manner as individuals that do not receive Medicaid HCBS in these provider-owned and controlled settings.

- **Coercion and Restraint:** CMS asked the state to clarify which codes and standards apply to which settings for the federal requirement that individuals are free from coercion and restraints in Chart 2. CMS also requested the state include language in the systemic assessment crosswalk indicating that individuals are free from coercion for Pediatric Medical Day Care settings. Additionally, CMS asked the state to provide citations and language from state standards indicating individuals have the right to freedom from coercion and restraint and that any use of restraints or restrictive interventions will be documented through the person-centered planning process.

  State's Response: The state has indicated in the systemic assessment that they will update SCDDSN Directive 600-05-DD and the SCDDSN Day standards to include the requirements that individuals have freedom from coercion and restraints. These changes will ensure that individuals have freedom from coercion and restraints and the rights to privacy, dignity and respect in all applicable settings. Additionally, the state indicated that state code section 44-26-160 applies to all settings and participants served by SCDDSN, which states that any use of restraints or restrictive interventions will be documented through the person-centered planning process. The systemic assessment also indicates that each Pediatric Medical Day Care setting must have a statement on behavior management that includes the prohibition of emotional and physical abuse, of the use of threats and of chemical or physical restraint (SC Code Regs 114-506 (B)).

- **Personal Resources and Employment in Competitive Integrated Settings:** CMS asked the state to provide language from state standards demonstrating that all HCBS settings must comply with the federal requirements that individuals have control over their personal resources and have access to employment in competitive integrated settings.
  - CMS asked the state to provide language clarifying how adults in day care settings have access to employment in competitive integrated settings and control over personal resources. Beneficiaries who wish to be supported in pursuing employment must have access to such supports via HCBS setting offerings, though it is recognized that many aging beneficiaries do not wish to seek employment. Non-residential settings serving aging beneficiaries are still expected to serve as a conduit between the HCBS beneficiaries and resources in the broader community that can support individual preferences related to volunteerism and employment. These non-residential HCBS settings are not expected to be providers of employment services, but rather support individual HCBS beneficiaries identify resources that may help facilitate volunteer or work

opportunities in the broader community should the individual express an interest or desire to pursue volunteerism or paid work.

- The STP contains the following language from SC Code Ann. § 44-20-490: "When the department determines that a client may benefit from being placed in an employment situation, the department shall regulate the terms and conditions of employment, shall supervise persons with intellectual disability, a related disability, head injury, or spinal cord injury so employed, and may assist the client in the management of monies earned through employment to the end that the best interests of the client are served." CMS requested that the state include an additional remediation strategy clarifying that this provision does not mean that the state/provider must serve as the employer of record or direct supervisor of individuals in their employment situations as a condition for HCBS beneficiaries to receive supported employment services.

State's Response: For all settings in the systemic assessment crosswalk, the state has provided language showing how the current state standards allow individuals to have control over their personal resources and can seek employment in competitive integrated settings. For Day services settings and Residential Habilitation settings, SCDDSN Directive 700-07-DD indicates that individual employment services is the first and preferred Day Service option to be offered to working-age youth and adults, and state code section 44-26-90 and SCDDSN Day Standard 14 indicate that individuals can control their own personal resources.

- The STP also indicates that Adult Day Health Centers must provide individuals assistance with community and personal referral activities if they indicate a preference for employment. The person-centered plan would also be updated to include adjustments to facilitate an individual seeking employment.
- The STP also clarifies that SCDDSN directive 510-01-DD Supervision of People Receiving Services states that, "People should live and work in the most natural and normal environments that support and respect their dignity and rights. Any support system that enables the person to be in those environments must be structured to manage the risks while facilitating self-determination, personal choice and responsibility [...]. Supervision that is more restrictive than warranted is a violation of the person's right to freedom of movement." However, the State will seek to further define and explain the meaning of "supervision" as it applies to employment through sub-regulatory guidance which will clarify that individuals are not mandated to have the provider serve as their employer of record or supervisor. This will be accomplished by Jan. 31, 2017.

- **Provider Owned and Controlled Residential Settings:** CMS asked the state to include 42 CFR 441.301(c)(4)(vi)(F) in the systemic assessment crosswalk, which pertains to the process the state must follow in order to modify any of the conditions under the federal settings rule that apply to provider owned and controlled residential settings. CMS also asked the state to ensure the remedial language for Residential Habilitation Service settings always allows individuals to have choice regarding services and supports, and who provides them. The state also needed to include remedial language indicating that only appropriate staff have access to keys for Residential Habilitation Services settings.

The state's remedial language also should indicate that individuals have access to visitors and food at all times for Residential Habilitation Services settings.

State's Response: The state included 42 CFR 441.301(c)(4)(vi)(F) in the systemic assessment, and indicated they will remediate this issue in policy. The state has documented where the SCDDSN Residential Habilitation Standards clearly indicate that individuals preferences/wishes/desires for how, where, and with whom they live are learned from the person prior to entry into a residential setting and continuously. The SCDDSN Residential Habilitation Standards also indicate that individuals have access to visitors and food at all times, and only appropriate staff have access to keys.

- **Citations:** CMS asked the state to ensure that the systemic assessment contains citations for each instance where the state references a state standard. Specifically, CMS asked the state to provide citations for Adult Day Health, Pediatric Medical Day Care and Day Service Facilities showing compliance with the federal requirement that 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 must be 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. Additionally, the state was asked to provide citations showing individuals have the right to privacy for Day Services and Residential Habilitation Services settings. The state also needed to provide the correct citation for Adult Day Health Care for the federal requirement that the setting 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. Citations were also needed for Adult Day Health Care and Pediatric Medical Day Care settings for the requirement that individuals have choice regarding services and supports, and who provides them.

  State's Response: The state has provided the appropriate citations throughout the systemic assessment for each of the federal requirements listed above. Please see pages 17-29 of the STP for each state standard's citation.

- **Assuring all HCBS Beneficiaries Reside in Settings that Meet the Federal HCBS Requirements:** Section 4.1.5 of the STP indicates that there are other residential settings in South Carolina that may be utilized by HCBS waiver participants as their primary residence that are also utilized by individuals not receiving Medicaid HCBS in the community. The STP also indicates that waiver participants are not receiving HCBS in these settings. These settings also need to comply with the settings rule, as individuals receiving non-residential HCBS in the community must also live in settings complying with the regulatory requirements. The state was asked to include the state standards that apply to these settings in the systemic assessment crosswalk and indicate their compliance level with the federal requirements. The state was also asked to include any remediation plans the state has for the state standards applicable to these settings.

State's Response: The state has indicated that these other residential settings consist of non-SCDDSN operated CRCFs, which do not have the same level of protections and responsibilities to serve clients in accordance with the HCBS rule. The state has included language in the narrative of the STP describing how they will ensure waiver beneficiaries are truly living in home and community-based settings, and not settings with institutional qualities, SCDHHS is currently drafting a new policy which would designate these beneficiaries as "Tier 3 CRCF clients" (page 15). A Tier 3 client is a waiver beneficiary who resides in a non-SCDDSN operated CRCF. To serve a Tier 3 client, providers must comply with all of the requirements of 42 CFR 441.301(c)(4)(i-vi) and would be compensated at a higher rate. This new SCDHHS program and policy development is expected to be finalized by June 30, 2017 with an expected implementation date of June 30, 2018. The state also provided specific details indicating that clients will have access to lockable doors, transportation, etc. Additionally, the house rules will not be more restrictive than the federal requirements.

ATTACHMENT II.
ADDITIONAL CMS FEEDBACK ON AREAS WHERE IMPROVEMENT IS NEEDED TO RECEIVE FINAL APPROVAL OF THE STATEWIDE TRANSITION PLAN

PLEASE NOTE: It is anticipated that the state will need to go out for public comment once these changes are made and prior to resubmitting to CMS for final approval. The state is requested to provide a timeline and anticipated date for resubmission for final approval as soon as possible.

Site-Specific Assessment & Validation Activities

Please address the following concerns regarding the state's site-specific assessment process within the STP.

- ***Settings Presumed by South Carolina to be Fully Compliant with Federal HCBS Rule:*** Please clearly articulate whether there are any categories of settings that the state is presuming automatically comply with the rule.
    - Other Residential Homes: Section 4.1.5 of the STP indicates that there are other residential settings in South Carolina that may be utilized by HCBS waiver participants as their primary residence that are also utilized by individuals not receiving Medicaid HCBS in the community (page 34). The STP also indicates that waiver participants are not receiving HCBS in these settings. CMS would like to remind the state that all residential settings where Medicaid HCBS recipients reside must comport with the federal settings requirements, regardless of whether the HCBS recipients receive services in that particular setting. While the state has indicated plans in its STP for implementing new policy to apply the requirements of the HCBS rule to these location, please explain how the state will assure these settings comply with the federal HCBS rule and provide ongoing monitoring of these settings classified by the state as "other residential homes". In particular, the Community Residential Care Facilities (CRCFs) are of particular concern and the state should articulate how it plans to work with the SC Department of Health and Environmental Control (SDHEC) to educate providers of CRCFs about the federal HCBS requirements, and then verify these homes actually do comport with the rule.
    - Individual, Privately-Owned Homes:
        - The state may make the presumption that privately owned or rented homes and apartments of people living with family members, friends, or roommates meet the home and community-based settings requirements if they are integrated in typical community neighborhoods where people who do not receive home and community-based services also reside. A state will generally not be required to verify this presumption. However, the state must outline what it will do to monitor compliance of this

category of settings with the federal home and community-based settings requirements over time.

- Also, as with all settings, if the setting in question meets any of the scenarios in which there is a presumption of being institutional in nature and the state determines that presumption is overcome, the state should submit to CMS necessary information for CMS to conduct a heightened scrutiny review to determine if the setting overcomes that presumption. In the context of private residences, this is most likely to involve a determination of whether a setting is isolating to individuals receiving home and community-based services (for example, a setting purchased by a group of families solely for their family members with disabilities using home and community-based services).
- Please note that CMS is concerned by initial findings of the Technical Assistance Collaborative (Appendix I) that suggests that Community Training Homes may be intentionally leasing apartments within the same area of a complex as opposed to dispersing them throughout the complex. It is this type of pattern that the state should be concerned with also with respect to groups of homes that may be purchased separately but co-located in such a way that isolates the beneficiary from the broader community. CMS is pleased the state has invested in geo-mapping in its identification process for settings that need to be flagged for heightened scrutiny, and believes this could be used as a tool for also identifying such potential patterns.

- ***Individuals and Family Members Survey:*** As part of its initial assessment activities, the state implemented both a provider self-assessment process with a corresponding survey of waiver recipients and family members (page 37). CMS requests the state include the following additional information with respect to the corresponding participant survey:
  - Please clarify whether or not all HCBS participants were given the opportunity to complete the survey. If they were, please confirm the survey participation rate across setting categories, as well as additional details for how the state assured optimal participation (informational sessions, outreach activities, education via case managers, etc.). If not all participants were asked to complete the initial survey, please provide additional details regarding the percentage of participants surveyed in each setting and across setting categories, and how the participants were selected to take the survey.
  - Please clarify how family members were selected to complete the survey, and what the process was for surveying them independently of waiver participants.

- Please clarify whether the state collected data on or specified who could help participants complete the survey, and what steps were taken to assure the autonomy and confidentiality of participants while completing the survey.
- Please explain in further detail how the state used the results of this survey as part of the individual site/setting review and validation procedure. Also, please describe how discrepancies between individual consumer or family survey responses and the data reported from the provider self-assessment will be addressed.

- ***Validation Process:*** The state has indicated that site visits will be conducted for 100% of non-residential and residential settings. Please describe in more detail the qualifications of the staff who will be conducting onsite visits and the training staff will receive on the federal settings requirements prior to completing the site visits.

- ***Pediatric Medical Day Care:*** After initial review, the state determined that the Pediatric Medical Day Care setting is compliant with the HCBS settings requirements (page 40). Please clarify whether providers in this setting received an onsite visit. If not, provide further details on how the state validated the provider's self-assessment survey results.

- ***Group Settings:*** As a reminder, all settings that group or cluster individuals for the purposes of receiving HCBS must be assessed by the state for compliance with the rule. This includes all group residential and non-residential settings, including but not limited to prevocational services, group supported employment and group day habilitation activities. CMS requests the state confirm that all of these settings are being included in the state's assessment and remediation strategies.

- ***Reverse Integration Strategies:*** CMS is interested in seeing more detail in the STP on what steps the state is taking to assure that settings follow-through in enhancing their approach to service delivery to assure a level of optional integration for beneficiaries on par with individuals not receiving HCBS. As such, CMS requests additional detail from the state as to how it will assure that non-residential settings comply with the various requirements of the HCBS rule, particularly around integration of HCBS beneficiaries to the broader community.
    - As CMS has previously noted, states cannot comply with the rule simply by bringing individuals without disabilities from the community into a setting. Compliance requires a plan to integrate beneficiaries into the broader community. Reverse integration, or a model of intentionally inviting individuals not receiving HCBS into a facility-based setting to participate in activities with HCBS beneficiaries in the facility-based setting is not considered by CMS by itself to be

a sufficient strategy for complying with the community integration requirements outlined in the HCBS settings rule.

- Under the rule, with respect to non-residential settings providing day activities, the setting should ensure that individuals have the opportunity to interact with the broader community of non-HCBS recipients and provide opportunities to participate in activities that are not solely designed for people with disabilities or HCBS beneficiaries that are aging but rather for the broader community. Settings cannot comply with the community integration requirements of the rule simply by hiring, recruiting, or inviting individuals, who are not HCBS recipients, into the setting to participate in activities that a non-HCBS individual would normally take part of in a typical community setting.
- CMS encourages South Carolina to provide further detail as to how it will assure non-residential settings implement adequate strategies for adhering to these requirements.

Site-Specific Remedial Actions

Please address the following issues regarding the state's site-specific remedial actions in the STP:

- ***Timeline:*** Please provide a more specific timeline for each remedial action. For example, explain how long after the initial site visits providers will receive written notice about creating a compliance action plan (page 40). Please also confirm the timing for when the state will either approve or disapprove the compliance action plans and when the state will conduct follow-up visits to monitor the settings' implementation of the plans.
- ***Non-Disability Specific Setting Capacity:*** The STP provides limited details as to how the state will sufficiently address the federal requirement that each individual has a choice of and access to a non-disability specific setting. Please provide more specific details about the state's approach to assuring beneficiary access to non-disability specific settings in the provision of residential and non-residential services. This additional information should include how the state is strategically building capacity across the state to assure non-disability specific options.
- ***Ongoing Provider Training:*** The STP indicates that all personnel across HCBS providers must have a minimum 10 hours of training a year, but does not specify what training will be required on an ongoing basis of both new and existing staff. Please provide additional information of any additional training requirements that will be expected by the state around compliance with the federal HCBS rule.
    - ***Non-Residential Setting Training & Technical Assistance:*** The global assessment results for non-residential settings suggests that additional training is needed to assure that providers understand that HCBS beneficiaries must not be limited in experiencing these settings as compared to how non-HCBS individuals

experience the settings. Please provide additional details clarifying the training that providers will receive on this topic.

- ***Residential Setting Training & Technical Assistance:*** The preliminary results from the global assessment, coupled with observations and recommendations outlined by the Technical Assistance Collaborative, suggest that HCBS residential providers in the state need additional training around specific requirements in the federal HCBS rule (for example, allowing visitors, lease agreements, etc.). Please describe how the state will address this issue.

Monitoring of Settings

CMS requests additional details regarding the level of training on the federal HCBS requirements and ongoing technical assistance to be provided to any employees or contract personnel within the state's existing quality assurance infrastructure that will be responsible for the ongoing monitoring of settings for continued compliance with the federal HCBS rule.

Heightened Scrutiny

The state must clearly lay out its process for identifying settings that are presumed to have the qualities of an institution. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based in nature and do not have the qualities of an institution. If the state determines it will not submit information, the presumption will stand and the state must describe the process for informing and transitioning the individuals involved either to compliant settings or to non-HCBS funding streams.

- These settings include the following:
  - Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
  - Settings 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 home and community-based services from the broader community of individuals not receiving Medicaid home and community-based services.

As a reminder to the state, CMS' *Guidance on Settings that Have the Effect of Isolating Individuals Receiving HCBS from the Broader Community* along with several tools and sub-regulatory guidance on this topic are available online at http://www.medicaid.gov/HCBS.

- ***Community Residential Care Facilities:*** Please provide more information about the state review of Community Residential Care Facilities. The STP indicates that 12 Community Residential Care Facilities will be subject to state review to establish if they

overcome the institutional presumption (page 39) and also includes a review by the Technical Assistance Collaborative (TAC) of a very small sample of these facilities (Appendix I). However, the STP does not distinguish the 12 facilities that will be subject to this review from the other 34 that the state views as non-compliant with the regulation but likely to comply with modifications (page 39). Please provide clearer distinctions between these two categories. CMS strongly suggests the state consider subjecting all Community Residential Care Facilities to the state review as there are concerns about how these facilities can meet the federal requirements as they are currently operated. CMS is concerned with the TAC's finding that some of these settings were assessed to have institutional-like characteristics, particularly those that were converted from Intermediate Care Facilities. Please explain how the state determined that 34 of these facilities can comply with modifications.

Submission of Heightened Scrutiny Evidentiary Packages: To assist states in developing an evidentiary package in support of each setting submitted to CMS for heightened scrutiny review, please refer to Frequently Asked Questions published by CMS in 2015[1].

Communication with Beneficiaries of Options when a Provider will not be Compliant

CMS requests that the state include additional information about the information and assistance provided to beneficiaries to locate and transition to compliant settings.

- ***Beneficiary Communication Timeline:*** Please provide more detail about the steps the state will take to communicate with beneficiaries, and who will be responsible for executing each step. CMS is extremely concerned that the state is giving only a 30-day notice to beneficiaries and their families that may have to locate and transition to compliant settings if a setting cannot be compliant (for both residential and non-residential settings alike). This may not allow enough time for beneficiaries to explore additional setting options with their case managers, families and support networks. CMS requests the state re-evaluate this plan and build in longer timeframes to assist beneficiaries to complete this process.

- ***Adequacy of Available Provider & Setting Options:*** Please describe how the state will ensure that all critical services and supports are in place in advance of each individual's transition. CMS notes with concern the statement made that "If there is no other viable provider, the case manager may work to authorize other services to substitute for the service change," (see pages 39 and 42). Understanding that this may happen, it is incumbent upon the state to assure an adequate number of providers of HCBS, and as such CMS requests the state

[1] https://www.medicaid.gov/medicaid/hcbs/downloads/home-and-community-based-setting-requirements.pdf

provide further information about the steps it will take to assure a continuity of service delivery among affected beneficiaries.

- ***Estimated Number of Beneficiaries Impacted:*** Please report the estimated number of beneficiaries that may be living or receiving services in settings that may not meet the requirements of the Final Rule.

Milestones

A milestone template will be supplied by CMS. Please resubmit the chart with any updates no later than 30 days after receiving the template. The chart should reflect anticipated milestones for completing systemic remediation, settings assessment and remediation, heightened scrutiny, communications with beneficiaries, and ongoing monitoring of compliance. It should also include timelines that address the feedback provided in this letter.

SOUTH CAROLINA
Healthy Connections
MEDICAID

Home and Community-Based Services (HCBS) Statewide Transition Plan

Independent. Integrated. Individual.

Revised: November 3, 2016

Prepared by:

South Carolina Department of Health and Human Services (SCDHHS)

Table of Contents

The following Appendices are online at the SCDHHS HCBS Website:

South Carolina Department of Health and Human Services (SCDHHS)
Home and Community-Based Services (HCBS) Statewide Transition Plan

1. 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. 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 all home and community-based (HCB) 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[1]
    - 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 that 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 Statewide Plan Development

CMS required that each state submit a "Statewide Transition Plan" by March 17, 2015. The Statewide 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 the HCBS Rule requirements by March 17, 2019.

The Statewide Transition Plan applies to all settings where home and community-based services are provided. In South Carolina, home and community-based services are currently offered through the following waiver programs:

- Intellectually Disabled and Related Disabilities waiver (ID/RD)
- Community Supports waiver (CS)

[1] A public institution is defined as an inpatient facility that is financed and operated by a county, state, municipality, or other unit of government.

- Head and Spinal Cord Injury waiver (HASCI)
- Pervasive Developmental Disorder waiver (PDD)[2]
- Medically Complex Children waiver (MCC)
- Community Choices (CC) waiver
- HIV/AIDS waiver
- Mechanical Ventilator Dependent waiver
- Psychiatric Residential Treatment Facility (PRTF) Alternative/Children's Health Access in Community Environments (CHANCE) waiver[3]

In addition, the state added Healthy Connections Prime as an option for Community Choices, Mechanical Ventilator Dependent and HIV/AIDS waiver participants. Through Healthy Connections Prime, waiver participants age 65 and older who receive both Medicare and Medicaid and meet other eligibility criteria will get all of their care, including primary care, behavioral health and long term care services, from one health plan, known as a Coordinated and Integrated Care Organization (CICO).

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 Connection 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.

[2] This waiver is transitioning to a state plan service

[3] This waiver was a demonstration waiver with services ending in 2016 as the final beneficiaries no longer required the intensity of waiver services.

Per CMS requirements, the first draft of this Statewide Transition Plan (February 26, 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 Statewide Transition Plan has been revised four (4) 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 Statewide Transition Plan

Date of Revision	Reason
September 25, 2015	CMS first review of Statewide Transition Plan requiring revisions
February 4, 2016	CMS review of STP draft before public notice
February 24, 2016	Public notice and comment period of STP due to substantive changes
March 31, 2016	Revised STP submitted to CMS with updates to completed systemic assessment
August 17, 2016	Public notice and comment period of STP due to substantive changes per CMS feedback
October 28, 2016	Revised STP submitted to CMS based on public comments and technical changes from CMS

2. Communications and Outreach – Public Notice Process

2.1 Public Notice and Comment on Statewide Transition Plan

SCDHHS used multiple methods of public notice and input for the Statewide Transition Plan that was submitted to CMS on February 26, 2015.

- Eight statewide public informational meetings were held that provided an overview of the HCBS Rule and the Statewide Transition Plan. Those dates and locations were:
  - Sept. 3, 2014 Aiken, SC
  - Sept. 11, 2014 Orangeburg, SC
  - Sept. 16, 2014 Anderson, SC
  - Sept. 25, 2014 Lyman, SC
  - Oct. 2, 2014 Myrtle Beach, SC
  - Oct. 9, 2014 Greenwood, SC
  - Oct. 16, 2014 Beaufort, SC
  - Oct. 21, 2014 Rock Hill, SC

  Emails with an attached flyer containing information about the plan were sent out to individual providers, advocate groups and state agencies. Those entities shared the information with their networks, including beneficiaries. A general notification of these meetings was also printed in SCDHHS' member newsletter; all Medicaid members receive this newsletter.

- A website specific to the HCBS Rule was developed and went live on Sept. 4, 2014. URL: scdhhs.gov/hcbs. It contains the following content:
  - Meeting dates, times, and locations
  - Information on the HCBS workgroup, including meeting minutes and mid-month updates
  - Formal presentation delivered at the eight public informational meetings above
  - Draft of the Statewide Transition Plan
  - A comments page where questions and comments may be submitted on the HCBS Rule and/or the Statewide Transition Plan
- Tribal Notification was provided on Oct. 27, 2014. A Tribal Notification conference call for the Statewide Transition Plan was held Oct. 29, 2014.
- The Medical Care Advisory Committee (MCAC) was provided an advisory on the Statewide Transition Plan on Nov. 12, 2014.
- Public notice for comment on the Statewide Transition Plan, along with the plan itself, was posted on the SCDHHS HCBS website on Nov. 7, 2014 (msp.scdhhs.gov/hcbs/site-page/about AND msp.scdhhs.gov/hcbs/resource/additional-resources) and on the SCDHHS website on Nov. 10, 2014 (scdhhs.gov/public-notices).
- Public notice for comment on the statewide transition plan was sent out via the SCDHHS listserv on Nov. 7, 2014.
- Four public meetings were held in November and December of 2014 to discuss the statewide transition plan. These meetings were held in the following cities:
  - Nov. 13, 2014 Florence, SC
  - Nov. 18, 2014 Greenville, SC
  - Dec. 2, 2014 Charleston, SC
  - Dec. 4, 2014 Columbia, SC
- For those unable to attend a public meeting, a live webinar was held on Wednesday, Nov. 19, 2014. This meeting was recorded and made available for viewing, along with a transcript of the recording, on the Family Connection of SC website: http://www.familyconnectionsc.org/webinars
- Comments were gathered from the public meetings listed above (the eight in September and October as well as those in November and December), from electronic communications sent to SCDHHS and from communications mailed to SCDHHS.
- SCDHHS reviewed the comments and incorporated any appropriate changes to the Statewide Transition Plan. A summary of the public comments is included with this Statewide Transition Plan submitted to CMS in February 2015 (Appendix A-1). South Carolina's HCBS Statewide Transition Plan, as submitted to CMS on February 26, 2015, was posted in the following locations:
  scdhhs.gov/public-notices
  msp.scdhhs.gov/hcbs/site-page/statewide-transition-plan

2.2 Communication during the Implementation of the Statewide 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 Statewide 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 SCDHHS county offices and shared with interested stakeholders.

SCDHHS also continues to take advantage of presentation opportunities, whether at various conference opportunities or to provider organizations, advocacy and self-advocacy groups, family groups, and other interested stakeholders. SCDHHS is also providing face-to-face, informal technical assistance to individual provider agencies to address any questions or concerns about the HCBS rule and its requirements.

These communication efforts should allow for ongoing transparency and input from stakeholders on the HCBS Statewide 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.

2.3 Update February – March 2016

This Statewide Transition plan was revised three times since its original submission to CMS on Feb. 26, 2015:

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

The version dated February 23, 2016, went out for public notice and comment on February 24, 2016, through March 25, 2016. It was available through the following methods:

- Public notice printed in the following newspapers:
  - The State (Columbia and midlands area) – Feb. 23, 2016
  - The Post and Courier (Charleston and lowcountry area) – Feb. 24, 2016
  - The Greenville News (Greenville and the upstate) – Feb. 23, 2016
- On the SCDHHS HCBS website
- On the SCDHHS website under "Public Notice"
- On the SCDDSN website
- On the Family Connection of SC website
- On the Able South Carolina website
- On the SC Developmental Disabilities Council website
- On the AARP South Carolina website
- On the Protection & Advocacy (SC) website
- Sent out via the SCDHHS listserv
- Available in print form at the SCDHHS main office lobby (Jefferson Square, 1801 Main Street, Columbia, SC)
- Available in print form at all Healthy Connections Medicaid County Offices
- Available in print form at all Community Long Term Care (CLTC) Regional Offices

- Tribal Notification was provided on Feb. 22, 2016. A Tribal Notification conference call for the Statewide Transition Plan was held Feb. 24, 2016.
- The Medical Care Advisory Committee (MCAC) was provided an advisory on the Statewide Transition Plan on Feb. 9, 2016.
- A live webinar was held on Wednesday, Feb. 24, 2016. This meeting was recorded and made available for viewing, along with a transcript of the recording, on the Family Connection of SC website.
- Written comments on the Statewide Transition Plan were sent to:
  Long Term Care and Behavioral Health
  ATTN: Kelly Eifert, Ph.D.
  South Carolina Department Health and Human Services
  P.O. Box 8206
  Columbia, South Carolina 29202-8206
- Comments could be submitted to https://msp.scdhhs.gov/hcbs/webform/comments-questions. All comments were received by March 25, 2016.
- Comments were gathered from the webinar on Feb. 24, 2016 and from communications mailed to SCDHHS. SCDHHS reviewed the comments and provided a written summary and response found in Appendix A-2.

The South Carolina HCBS Statewide Transition Plan was submitted to CMS on March 31, 2016, and is posted in the following places:

- scdhhs.gov/hcbs/site-page/statewide-transition-plan
- scdhhs.gov/public-notices
- Available in print form at all Healthy Connections Medicaid County Offices
- Available in print form at all Community Long Term Care (CLTC) Regional Offices

2.4 Update August – October 2016

This Statewide Transition Plan is on its fourth revision since its original submission to CMS on Feb. 26, 2015. The version dated Aug. 17, 2016, was out for public notice and comment through Oct. 7, 2016. It was available through the following methods:

- Public notice printed in the following newspapers:
  - The State (Columbia and midlands area) - Aug. 19, 2016
  - The Post and Courier (Charleston and lowcountry area) – Aug. 19, 2016
- On the SCDHHS HCBS website
- On the SCDHHS website under "Public Notice"
- On the SCDDSN website
- On the Family Connection of SC website
- On the Able South Carolina website and Facebook page
- On the SC Developmental Disabilities Council website
- On the AARP South Carolina website
- On the Protection & Advocacy (SC) website and Facebook page
- On the IMPACT South Carolina Facebook page
- Sent out via the SCDHHS listserv

- Available in print form at the SCDHHS main office lobby (Jefferson Square, 1801 Main Street, Columbia, SC)
- Available in print form at all Healthy Connections Medicaid County Offices
- Available in print form at all Community Long Term Care (CLTC) Regional Offices
- Tribal Notification was provided on July 25, 2016. A Tribal Notification conference call for the Statewide Transition Plan was held Aug. 9, 2016.
- The Medical Care Advisory Committee (MCAC) was provided an advisory on the revised Statewide Transition Plan on Aug. 16, 2016.
- Nine public meetings were held August – October of 2016 to discuss the statewide transition plan. These meetings were held in the following cities:
    - Aug. 23, 2016 Anderson, SC
    - Sept. 8, 2016 Fort Mill, SC
    - Sept. 13, 2016 Charleston, SC
    - Sept. 15, 2016 Greenville, SC
    - Sept. 20, 2016 Myrtle Beach, SC
    - Sept. 22, 2016 Florence, SC
    - Sept. 27, 2016 Aiken, SC
    - Sept. 29, 2016 Beaufort, SC
    - Oct. 4, 2016 Columbia, SC
- For those unable to attend a public meeting, a live webinar was held on Tuesday, Aug. 23, 2016. This meeting was recorded and made available for viewing, along with a transcript of the recording, on the Family Connection of SC website. Registration was online here: http://www.familyconnectionsc.org/training-events//sc-home-and-community-based-services-statewide-transition-plan
    - The webinar presentation, along with the transcript, is available at: https://msp.scdhhs.gov/hcbs/site-page/presentations
- Written comments on the Statewide Transition Plan were sent to:
  Long Term Care and Behavioral Health
  ATTN: Kelly Eifert, Ph.D.
  South Carolina Department Health and Human Services
  P.O. Box 8206
  Columbia, South Carolina 29202-8206
- Comments could be submitted to https://msp.scdhhs.gov/hcbs/webform/comments-questions. All comments were to be received by October 7, 2016.
- Comments were gathered from the webinar, the public meetings, and from communications emailed and mailed to SCDHHS. SCDHHS reviewed the comments and provided a written summary and response found in Appendix A-3.

The South Carolina HCBS Statewide Transition Plan was submitted to CMS on October 28, 2016, and is posted in the following places:

- scdhhs.gov/hcbs/site-page/statewide-transition-plan
- scdhhs.gov/public-notices
- Available in print form at all Healthy Connections Medicaid County Offices
- Available in print form at all Community Long Term Care (CLTC) Regional Offices

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

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. 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, regulation, 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 South Carolina are divided as follows:

- Day Services Facilities (primarily serving individuals with intellectual disabilities or related disabilities, or individuals with Head and Spinal Cord Injuries)
  - Adult Activity Centers (AAC)
  - Work Activity Centers (WAC)
  - Unclassified Programs
  - Sheltered Workshops
- Adult Day Health Care Centers (primarily serving frail elderly individuals, or individuals with physical disabilities)
- Residential habilitation settings (primarily serving individuals with intellectual disabilities or related disabilities that are served through the ID/RD Waiver, or individuals with Head and Spinal Cord Injuries):
  - Community Training Home I
  - Community Training Home II
  - Supervised Living Program II
  - Supported Living Program I
  - 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. Changes and clarifications to the systemic assessment were made based on the external stakeholder committee review.

In January of 2016, additional laws, regulations, and policies were reviewed for one additional setting in the Medically Complex Children waiver: Pediatric Medical Day Care. Those laws, regulations, and policies are found in the Outcomes section 3.2 below.

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, the remediation needed, and the timeframe within which the remediation occurred or will occur. The charts give the overview of the HCBS system in South Carolina, and the narrative below provides the details for any changes that need to take place.

3.2.1 Identified Laws/Regulations/Policies Found Not Compliant. With the first draft of the Statewide 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. **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 not 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.
    b. Ameliorated by SCDDSN Directive 567-01-DD (updated 7/2015) which includes language about person-centered approach to service planning, and ameliorated by SCDDSN Day Habilitation Standard #18 (updated 4/2016) which states, "Individuals receiving a DDSN Day Service are supported to make decisions and exercise choice regarding the specific DDSN Day services to be provided." Incorporating the person-centered service planning process ensures that individuals will make the choices for the services and supports they receive rather than having those choices made for them.
2. **SC Code Ann. § 44-20-490**: *"When the department determines that a client may benefit from being placed in an employment situation, the department shall regulate the terms and conditions of employment, shall supervise persons with intellectual disability, a related disability, head injury, or spinal cord injury so employed, and may assist the client in the management of monies earned through employment to the end that the best interests of the client are served."*
    a. This law is not compliant with 42 C.F.R. 441.301(c)(4)(iv). Having the director or his designee determine that a client may benefit from being placed in an employment situation, and then regulating the terms and conditions of that employment does not optimize an individual's initiative, autonomy, and independence in making life choices.
    b. Ameliorated by SCDDSN Directive 567-01-DD (updated 7/2015) which includes language about person-centered approach to service planning, and ameliorated by

SCDDSN Day Habilitation Standard #18 (updated 4/2016) which states, "Individuals receiving a DDSN Day Service are supported to make decisions and exercise choice regarding the specific DDSN Day services to be provided." Incorporating the person-centered service planning process ensures that individuals will make the choices for the services and supports they receive rather than having those choices made for them.

c. Additionally, through CMS feedback, the concern was also raised that this statute may mean that "the state/provider must serve as the employer of record or supervisor of individuals in their employment situations."
d. Currently, individuals served by SCDDSN have a variety of employment options which include, in some cases, where the provider is the employer of record, but many individuals also have fully integrated employment within the community with an employer who is not their service provider. Additionally, SCDDSN directive 510-01-DD Supervision of People Receiving Services states that, "People should live and work in the most natural and normal environments that support and respect their dignity and rights. Any support system that enables the person to be in those environments must be structured to manage the risks while facilitating self-determination, personal choice and responsibility […]. Supervision that is more restrictive than warranted is a violation of the person's right to freedom of movement." However, the State will seek to further define and explain the meaning of "supervision" as it applies to employment through sub-regulatory guidance which will clarify that individuals are not mandated to have the provider serve as their employer of record or supervisor. This will be accomplished by Jan. 31, 2017.

3. **S.C. Code Reg. 61-84-103:** *"Facilities shall comply with applicable local, state, and federal laws, codes, and regulations. R. 61-84-103(c)(1): Compliance with structural standards: [Existing facilities]…shall be allowed to continue utilizing the previously-licensed structure without modification."*
   a. This regulation is not fully compliant with 42 C.F.R. 441.301(c)(4)(vi). This regulation may allow for a CRCF to not be compliant with ADA regulations if it falls under the grandfather clause of this regulations.
   b. Ameliorated by SCDDSN Residential Habilitation standards (updated 6/2016) which require compliance with all federal statutes and regulations which includes federal ADA regulations. Also ameliorated by and SCDDSN Directive 700-02-DD (updated 1/2014) which requires all SCDDSN settings, which would include any CRCF in which residential habilitation service is received, to comply with the federal ADA regulations.
4. **SCDDSN Directive 200-01-DD, Personal Funds Maintained at the Residential Level:** *"A locking cash box shall be maintained in a secure location at each residence for the sole purpose of securing cash for the people living there. Access to the cashbox shall be limited to a minimum level of staff."*

a. This directive is not fully compliant with 42 C.F.R. 441.301(c)(4)(i) and is not fully compliant with 42 C.F.R. 441.301(c)(4)(iv). Storing an individual's personal cash in a cash box collectively with other residents' money, and that cash box is only accessible by a limited number of staff, does not optimize an individual's autonomy and does not allow an individual to control personal resources. This places a barrier on an individual's free use of their own money and may create a situation where an individual has to justify the use of their own money to a staff member to gain access to it.
b. Remediated on March 2, 2016 by SCDDSN, and approved by SCDHHS, with the removal of the above language which was replaced with the following: "Residential service providers must manage residents' personal funds in accordance with individualized financial plans established for each resident."

5. **SCDDSN Directive 200-12-DD, Management of Funds for People Participating in Community Residential Programs**: "*Personal funds should be managed under the direction of the provider except in the following situations: 1) A different representative payee has already been established for a person, or 2) An assessment of the person's abilities clearly demonstrates that he/she has the cognitive ability and financial skills to manage his/her funds."*
   a. This directive is not fully compliant with 42 C.F.R. 441.301(c)(4)(i) and is not fully compliant with 42 C.F.R. 441.301(c)(4)(iv). Having the default protocol put an individual's personal funds under the control of the provider does not optimize an individual's autonomy and does not allow an individual to control personal resources.
   b. Remediated on March 2, 2016 by SCDDSN, and approved by SCDHHS, with the removal of the above language which was replaced with the following: "Residents […] have the right to manage his/her own personal funds. However, when the resident needs assistance to manage their funds and does not have a willing representative to serve as his/her payee, the residents funds should be managed under the direction of the residential service provider."
6. **SCDDSN Directive 533-02-DD, Sexual Assault Prevention, and Incident Procedure Follow-up:** "*The family/guardians/family representative of both alleged perpetrator and victim should be notified of the incident as soon as possible by the Facility Administrator/Executive Director (or designee)."*
   a. This directive is not fully compliant with 42 C.F.R. 441.301(c)(4)(iii) and it is not fully compliant with 42 C.F.R. 441.301(c)(4)(iv). Mandating that a beneficiary's family/guardians/family representative be notified if an incident occurs may violate a beneficiary's right to privacy if that beneficiary does not want their family/guardian/family representative to be notified.
   b. To be remediated by SCDDSN, and subject to approval by SCDHHS, by removing the above language and replacing it with the following: "If the alleged perpetrator or the victim has a legal guardian, the legal guardian will be notified of the incident by the

Facility Administrator/Executive Director (or designee) as soon as possible following the incident. If the alleged perpetrator and/or victim is an adult who does not have a legal guardian, with consent, those chosen by the service recipient to be informed of the incident will be notified by the Facility Administrator/Executive Director." This directive is currently under review with anticipated changes to be made by Dec. 31, 2016.

7. **SCDHHS Policy: <u>Leave of Absence from the State/CLTC Region of a Waiver Participant:</u>** *"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; waivered services are limited to the frequency of services currently approved in the participant's plan of service; waivered services must be rendered by South Carolina Medicaid providers; the individual must remain Medicaid eligible in the State of South Carolina."*
   SCDDSN Medicaid Waiver Policy Manuals <u>Medicaid HCB Waiver Policy Regarding Waiver Services Provided while Clients Travel Out-of-State:</u> *"[…] 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. These policies do 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 these policies.

Feedback from CMS on earlier versions of the systemic assessment resulted in some additionally raised concerns for the State to address.

- "The state found all of its day service setting standards to be fully compliant with 42 CFR 441.301(c)(4)(iv), which requires a setting to not regiment an individual's schedule and provide independence in life choices (p. 64). South Carolina's standards for Adult Activity Centers, Work Activity Centers, Sheltered Workshops, and "Unclassified" Day Programs, however, require staffing ratios – including administrative staff, not just direct support staff – of 7:1, 7:1, 10:1, and 10:1, respectively. These types of fixed

staffing ratios raise concerns about whether a setting can support individualized activities and full access of individuals to the greater community. The standards also require the posting of program schedules at these facilities with defined start times, break times, and meals. Please describe within the STP how the state determined that these standards for a regimented schedule demonstrate full compliance with federal requirements or explain how these issues will be remediated."

- **SCDHHS Response:** The standards for the fixed staffing ratios and the posting of a program schedule are dictated by the SC Code of Regulations [SC Code of Regs 88-410 (B 1 a-d) and 88-435 (C 1-3)]. Because they are included in the regulation, they are included in the SCDDSN Standards for Licensing Day Facilities. These staffing requirements reflect the minimally required staffing ratios and in no way pose an absolute requirement. In an effort to support individualized activities and full access to the greater community, the SCDDSN Standards for Licensing Day Facilities provide guidance to explain the standard. The guidance instructs that SCDDSN Directive 510-01-DD entitled "Supervision of People" be used as the method through which the most appropriate level of supervision and support for the each person supported is to be determined, including each person's need for independent functioning. The guidance will be revised by December 2016.
- In an effort to support individualized activities and full access to the greater community, the SCDDSN Standards for Licensing Day Facilities provide guidance to explain the standard. For the requirement that program schedules be posted, the guidance instructs that the "schedules of activities should reflect the general schedule for the program. It is not necessary to specify the discrete activities that will occur with each service or program area. It is acceptable to identify the program start time, break times, lunch times, etc." The guidance will be revised by December 2016.

- "It does not appear that the citations provided by the state for Community Training Homes, Supportive Living Programs and the CLOUD are fully compliant with ensuring individuals are choosing from setting options that include non-disability specific options, ensuring only appropriate staff have access to keys for lockable doors, and ensuring individuals have access to visitors and food at any time. Please explain how the state will remediate these issues in the STP."
  - **SCDHHS Response:** SCDHHS is currently receiving technical assistance from CMS sponsored subject matter experts on the issue of non-disability specific settings options. The other issues raised have already been remediated through SCDDSN Residential Habilitation Standards (updated 6/2016) which now include all HCBS requirements.

- CMS also pointed out various regulations within SC Code of Regs. 61-84 (standards for licensing Community Residential Care Facilities) that seemed to be conflicting with the HCBS settings requirements.
    - **SCDHHS Response:** These regulations are licensing regulations promulgated by the South Carolina Department of Health and Environmental Control (SCDHEC). They apply to all CRCFs, or assisted living facilities, across the state, and not just to the provider owned and/or controlled CRCFs. DSN Board/Qualified provider owned and/or controlled CRCFs are contracted to provide residential habilitation services under the administration of SCDDSN. SCDDSN residential habilitation standards apply on top of the SCDHEC licensing regulations.

      As noted above, the SCDDSN residential habilitation standards now include all of the HCBS settings requirements for residential settings as they were updated in June of 2016. CRCFs that are not operated by SCDDSN providers do not have the same level of heightened protections and responsibilities to serve clients in accordance with the HCBS rule. As noted below, there are many gaps within SC Code Reg. 61-84 that make these settings not fully compliant with the requirements of 42 CFR 441.301(c)(4). To ensure waiver beneficiaries are truly living in home and community-based settings, and not settings with institutional qualities, SCDHHS is currently drafting a new policy which would designate these beneficiaries as "Tier 3 CRCF clients." A Tier 3 client is a waiver beneficiary who resides in a non-SCDDSN operated CRCF. To serve a Tier 3 client, providers must comply with all of the requirements of 42 CFR 441.301(c)(4)(i-vi) and would be compensated at a higher rate. This new SCDHHS program and policy development is expected to be finalized by June 30, 2017 with an expected implementation date of June 30, 2018. This deadline reflects the SC Fiscal Year (ex. July 1,2017 to June 30,2018) since this program will likely include a fiscal request for the SC General Assembly to approve.

      - R. 61-84-2705(I), the STP states, "*If resident doors are lockable, there shall be provisions for emergency entry. There shall not be locks that cannot be unlocked and operated from inside the room."*
        - SCDDSN-operated CRCFs: This is ameliorated by SCDDSN Residential Habilitation Standard 2.5 and SCDDSN Residential Habilitation Standards 2.4
        - Non-SCDDSN operated CRCFs: This will be ameliorated by the new SCDHHS Tier payment system policy described above by June 30, 2018.
      - S.C. Regs. 61-84-904 requires only that Community Residential Care Facilities provide transportation only to local physician and medical services. The regulation includes no mention of facilitating access to other supports. The state's systemic assessment provides no explanation for how this *"supports full access of individuals receiving Medicaid HCBS to the greater community."*

- SCDDSN-operated CRCFs have their own house transportation which is used by beneficiaries if they do not own their own vehicle. These vehicles are used in the same manner as any other private residence with private transportation (i.e. to run errands, take someone to appointments, go out to eat, participate in community events, etc.).
- Non-SCDDSN operated CRCFs: This will be ameliorated by the new SCDHHS Tier payment system policy described above by June 30, 2018.

▪ S.C. Regs. 61-84-1001(E) permits the development of "house rules" for Community Residential Care Facilities so long as these rules do not contradict the resident's "Bill of Rights For Residents of Long-Term Care Facilities." This resident's bill of rights does not address all of the areas required by the federal rule. Please explain how the state will ensure that house rules are not more restrictive than the settings rule permits.
  - House rules are developed by the consent of the residents in the home as an agreement of how they want to live together as roommates and therefore would not be restrictive on an individual who chooses to abide by those house rules. See S.C. Regs. 61-84-1001(F) (residents shall have input into the development of any house rules).
  - SCDDSN is currently drafting a model lease for its providers to utilize which incorporates all of the HCBS rule requirements within the lease, signed by both the beneficiary (and/or personal representative) and the provider. As such, house rules would not be permitted to be more restrictive than the contractual rights each resident has within their lease.
  - Non-SCDDSN operated CRCFs: This will be ameliorated by the new SCDHHS Tier payment system policy described above by June 30, 2018.
▪ S.C. Regs. 61-84-1001(L) allows access to telephones only during business hours and "*other times when appropriate*." However, 42 CFR 441.301(c)(4)(vi)(C) addresses beneficiaries' ability to control their own schedules and 42 CFR 441.301(c)(4)(vi)(D) allowing residents' visitor access at times of their choosing.
  - SCDDSN-operated CRCFs: This regulation is ameliorated by SCDDSN Residential Habilitation Standards RH 2.0
  - Non-SCDDSN operated CRCFs: This will be ameliorated by the new SCDHHS Tier payment system policy described above by June 30, 2018.

3.2.2 Compliance by Settings Type. SCDHHS has created two crosswalks showing how HCB services are provided in compliance with the HCBS regulation by setting type. These two charts show how these settings are operated within South Carolina's system of governance of various health facilities and through the Medicaid program. This information has been presented in multiple formats with the different versions of this statewide transition plan. The format below has been adopted to better synthesize the information and show how systemically each setting is regulated and to show areas of compliance. Each setting type now has all of the laws, regulations, and policies that affect it within the one chart and with any noted required action to be taken if needed.

Chart 1 – Day Care Settings

Chart 1 details the laws, regulations, and policies that are used to regulate an adult day health care center and a pediatric medical day care center. These settings are utilized in South Carolina for individuals who need the specific service provided in the setting, regardless of payor source. Therefore, the experience of individuals receiving HCBS in these settings are consistent with how those settings would be experienced by individuals who are not HCBS service recipients.

HCBS Regulation	Adult Day Health Care Centers	Pediatric Medical Day Care Center	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(i): The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community	A person choosing to receive services in an Adult Day Health Care is choosing to participate in activities and therapies designed to activate, motivate and/or retrain participants to enable them to sustain or regain functional independence. Each facility has to make available social, group, individual, educational, recreational, and other activities. These activities take place in the facility, normally, but there must be opportunities for excursions or outings to points of interest of participants, assistance with community and personal referral activities, and planned indoor and outdoor recreation. Additionally,	Licensed the same as any other child care facility in the state. See SC Code Ann.§§ 63-13-10.	None	None

	the setting is licensed the same as any other Adult Day Health Care facility in the state. S.C. Code. Regs. 61-75 (D).			
HCBS Regulation	**Adult Day Health Care Centers**	**Pediatric Medical Day Care Center**	**Conflicting/Action Required**	**Timeline**
42 CFR 441.301(c)(4)(i): include[es] opportunities to seek employment and work in competitive integrated settings	The number of days a participant attends each week is determined through the Medicaid Home and Community-Based waiver service plan and indicated on the current service authorization. This plan is updated when a change needs to be made which would include adjustments for an individual seeking employment. See Scope of Services for ADHCs. SC Code of Regs. 61-75-501; "Each facility shall make available […] 4. Assistance with community and personal referral activities."	N/A as this setting provides services to minors under the age of 6.	None	None
42 CFR 441.301(c)(4)(i): engage in community life	SC Code of Regs. 61-75-501; "Each facility shall make available […] 4. Assistance with community and personal referral activities. 6. Excursions or outings to points of interest; 7. Planned indoor and outdoor recreation."	N/A as this setting provides services to minors under the age of 6, but licensed the same as any other child care facility in the state. See SC Code Ann.§§ 63-13-10.	None	None

HCBS Regulation	Adult Day Health Care Centers	Pediatric Medical Day Care Center	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(i): control personal resources	Silent	N/A as this setting provides services to minors under the age of 6.	ADHC Scope of Service in Provider Contracts will be updated to include that "participants have the right to control their personal resources while under the care of the center."	01/13/2017
42 CFR 441.301(c)(4)(i): receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS	These settings are utilized in South Carolina for individuals who need the specific service provided in the setting, regardless of payor source. See SC Code Regs 61-75-101: (For adults 18 years of age or older, [with a] program directed toward providing community-based day care services for those adults in need of a supportive setting [.])	These settings are utilized in South Carolina for individuals who need the specific service provided in the setting, regardless of payor source. See SC Code Regs. 114-500 (These regulations apply equally to profit, not for profit and private child care centers)	SCDHHS will issue a policy statement to providers reinforcing that "the experience of individuals receiving Medicaid HCBS in non-residential settings should be consistent with how those settings would be experienced by individuals who are not Medicaid HCBS service recipients."	1/1/2017
42 CFR 441.301(c)(4)(ii): The setting is selected by the individual from among setting options including non-disability specific settings [and] The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences[.]	Beneficiaries have an array of services and supports to choose from and offered to them during the development of their person-centered service plan. Beneficiaries must be given freedom of choice when selecting services and providers which is documented in their Support plan. See CLTC provider manual Section 2	Beneficiaries have an array of services and supports to choose from and offered to them during the development of their person-centered service plan. Beneficiaries must be given freedom of choice when selecting services and providers which is documented in their Support plan. See TCM provider manual Section 2	None	None

HCBS Regulation	Adult Day Health Care Centers	Pediatric Medical Day Care Center	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(iii): Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	S.C. Code Ann. 44-26-10 et. seq.:"Rights of Clients with Intellectual Disability"; S.C. Code Ann.43-35-5 et seq. "Adult Protections" A statement of Rights of Adult Day Care Participants must be posted in each facility. The rights, including but not limited to, privacy, dignity, respect, and the freedom from coercion and restrain can be found in S.C. Code Regs. 61-75-901	**Compliant**: Each facility must have a statement on behavior management that includes the prohibition of emotional and physical abuse, of the use of threats and of chemical or physical restraint (SC Code Regs 114-506 (B)). Additionally, the facility must maintain the confidentiality of the attending children's records (SC Code Regs 114-503(I)).	None	None
42 CFR 441.301(c)(4)(iv): 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.	S.C. Code. Regs. 61-75 -901(3): Individual have "The right to self-determination within the day care setting, including the opportunity to: a. Participate in developing one's plan for services and any changes therein. b. Decide whether or not to participate in any given activity. c. Be involved to the extent possible in program planning and operation. d. Refuse treatment, if applicable, and be informed of the consequences of such refusal. e. End participation in the adult day care center at any time."	Each facility must develop a daily planned program of activities for the children attending the center that are age appropriate and designed to promote developmental growth, including opportunities for alone time in quiet areas (SC Code Regs 114-506 (A))	None	None
42 CFR 441.301(c)(4)(v): Facilitates individual choice regarding services and supports, and who provides them.	Beneficiaries are offered freedom of choice of providers within the geographic location in which they live. See CLTC provider manual Section 2.	Beneficiaries are offered freedom of choice of providers within the geographic location in which they live. See TCM provider manual Section 2	None	None

Chart 2 – SCDDSN Operated Home and Community Based Settings – Day Services and Residential Habilitation Services

Chart 2 details the laws, regulations and policies that are used to regulate the SCDDSN-operated home and community based settings (i.e. Day services and Residential Habilitation services). Previously this information was presented by setting type, which was broken down by supervision level for residential habilitation services settings and specific service for day services facilities. However, this did not accurately reflect that these settings are regulated by the same standards regardless of supervision level for residential habilitation services settings or specific service type for day service facilities. SCDHHS is now presenting the information to show how the SCDDSN-operated settings are regulated systemically. This was to cut down on duplicative information since many of the rights and responsibilities follow the beneficiary regardless of the setting in which they receive services.

It is important to note that these laws, regulations, and policies apply to all non-residential and residential settings operated by SCDDSN whether the individuals being served in that setting receives Medicaid HCBS. Therefore, the experience of individuals receiving HCBS in non-residential settings and residential are consistent with how those settings would be experienced by individuals who are not HCBS service recipients. See SC Code 44-20-20.

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(i): The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community	**SC Code Ann. 44-20-20**[4]**:** It is the purpose of [all DDSN services] to assist persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries by providing services to enable them to participate as valued members of their communities to the maximum extent practical and to live with their families or in family settings in the community in the least restrictive environment available. SCDDSN Residential Habilitation Standards 3.1, People are supported to maintain and enhance links with families, friends, or other support networks.	None	None
42 CFR 441.301(c)(4)(i): include[es] opportunities to seek employment and work in competitive integrated settings	**SCDDSN Directive 700-07-DD "**Employment Services-Individual, provided in integrated settings, is the first and preferred Day Service option to be offered to working age youth and adults [.]"	None	None

[4] This applies to all clients served by SCDDSN, regardless of payor source and regardless of setting.

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(i): engage in community life	**SC Code Ann 44-26-90[5].** Rights of client not to be denied. Unless a client has been adjudicated incompetent, he must not be denied the right to: (6) marry or divorce; (7) be a qualified elector if otherwise qualified. The county board of voter registration in counties with department facilities reasonably shall assist clients who express a desire to vote to: (a) obtain voter registration forms, applications for absentee ballots, and absentee ballots; (b) comply with other requirements which are prerequisite for voting; (c) vote by absentee ballot if necessary; (8) exercise rights of citizenship in the same manner as a person without intellectual disability or a related disability. SCDDSN Residential Habilitation Standards 3.0, People are supported and encouraged to participate and be involved in the life of the community	None	None
42 CFR 441.301(c)(4)(i): control personal resources	**SC Code Ann. 44-26-90[6].** Rights of client not to be denied. Unless a client has been adjudicated incompetent, he must not be denied the right to: (1) dispose of property, real and personal; (2) execute instruments; (3) make purchases; (4) enter into contractual relationships (5) hold a driver's license SCDDSN Day Standard 14: "Individuals are expected to manage their own funds to the extent of their capability." SCDDSN Residential Habilitation Standard 2.0: "People are supported to manage their own funds to the extent of their capability."	None	None

[5] This applies to all clients served by SCDDSN, regardless of payor source and regardless of setting.
[6] This applies to all clients served by SCDDSN, regardless of payor source and regardless of setting.

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(i): receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	SCDDSN Day Services Standards (All services): Community Services provides individuals the opportunity to maximize their exposure, experience and participation within their local community. Through this process, the individual will gain access to inclusive citizenship and social capital. SCDDSN Residential Habilitation Services: People should be present in the community and actively participate using the same resources and doing the same activities as other citizens.	SCDHHS will issue a policy statement to providers reinforcing that "the experience of individuals receiving Medicaid HCBS in non-residential settings should be consistent with how those settings would be experienced by individuals who are not Medicaid HCBS service recipients."	1/1/2017
42 CFR 441.301(c)(4)(ii): 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.	Beneficiaries have an array of services and supports to choose from and offered to them during the development of their person-centered service plan See SCDDSN Case Management Standards.[7]	State is currently receiving TA from CMS re: development of non-disability specific settings for these services.	TBD
42 CFR 441.301(c)(4)(ii): 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.	Beneficiaries must be given freedom of choice when selecting services and providers which is documented in their Support plan. See SCDDSN Case Management Standards[8] SCDDSN Residential Habilitation Standard RH4.2 "Within the residential service plan the preferences of individuals must be identified."	None	None

[7] This applies to all clients served by SCDDSN, regardless of payor source and regardless of setting.
[8] This applies to all clients served by SCDDSN, regardless of payor source and regardless of setting.

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(iii): Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	**SECTION 44-26-160[9].** (A) No client residing in an intellectual disability facility may be subjected to chemical or mechanical restraint or a form of physical coercion or restraint unless the action is authorized in writing by an intellectual disability professional or attending physician as being required by the habilitation or medical needs of the client and it is the least restrictive alternative possible to meet the needs of the client. (B) Each use of a restraint and justification for it must be entered into the client's record [.] (C) No form of restraint may be used for the convenience of staff, as punishment, as a substitute for a habilitation program or in a manner that interferes with the client's habilitation program. […] (F) The appropriate human rights committees must be notified of the use of emergency restraints. (G) Documentation of less restrictive methods that have failed must be entered into the client's record when applicable. SCDDSN Day Standard 13: "Individuals receiving a DDSN Day Service are free from abuse, neglect and exploitation." SCDDSN Day Standard 14: "Each individual's right to privacy, dignity and confidentiality in all aspects of life is recognized, respected and promoted. Personal freedoms are not restricted without due process." SCDDSN Residential Habilitation Standards: "Despite the presence of disabilities, people retain the same human, civil and constitutional rights as any citizen. People receiving Residential Habilitation Services rely on their services for support and encouragement to grow and develop, to gain autonomy, become self-governing and pursue their own interests and goals. Effective Residential Habilitation programs take positive steps to protect and promote the dignity, privacy, legal rights, autonomy and individuality of each person who receives services."	SCDDSN Directive 600-05-DD and/or the SCDDSN Day Standards will be updated to include the freedom from coercion and restraint.	1/31/2017

[9] This applies to all clients served by SCDDSN, regardless of payor source and regardless of setting.

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(iv): 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.	SCDDSN Day Standard 18: "Individuals receiving DDSN Day Service are supported to make decisions and exercise choice regarding the specific DDSN Day services provided." - SCDDSN Day Services Standards SCDDSN Residential Habilitation Standards: RH2.1 People are supported to make decisions and exercise choices regarding their daily activities	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." AND SC Code Ann. § 44-20-490: (A) When the department determines that a client may benefit from being placed in an employment situation, the department shall regulate the terms and conditions of employment, shall supervise persons with intellectual disability, a related disability, head injury, or spinal cord injury so employed, and may assist the client in the management of monies earned through employment to the end that the best interests of the client are served. **Action Required:** Remediate conflicting statutes through sub-policy guidance on person-centered service planning	Completed 07/2015
42 CFR 441.301(c)(4)(v): Facilitates individual choice regarding services and supports, and who provides them.	SCDDSN Day Standard 18: "Individuals receiving DDSN Day Service are supported to make decisions and exercise choice regarding the specific DDSN Day services provided." - SCDDSN Day Services Standards SCDDSN Residential Habilitation Standards 1.2: People's preferences/wishes/desires for how, where, and with whom they live are learned from the person: prior to entry into a residential setting; and continuously; DDSN Waiver Policy.	None	None
42 CFR 441.301(c)(4)(vi)(A): The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by	SCDDSN Residential Habilitation Standard 2.6: "A legally enforceable agreement (lease, residency agreement, or other form of written agreement) is in place for each person in the home setting within which he/she resides. The document provides protections that address eviction process and appeals comparable to those provided under	None	None

the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State[.]	South Carolina's Landlord Tenant Law, (S.C. Code Ann. § 27-40-10 et. seq.)"		
HCBS Regulation	**Supporting**	**Conflicting/Action Required**	**Timeline**
42 CFR 441.301(c)(4)(vi)(B): Each individual has privacy in their sleeping or living unit	SCDDSN Residential Licensing Standard 2.7: "When occupied by more than one (1) resident the setting must afford each resident sufficient space and opportunity for privacy including bathing/toileting facilities behind a lockable door, lockable doors on bedroom/sleeping quarters and lockable storage."; SCDDSN Residential Habilitation Standard 2.5 "Each resident must be provided with a key to his/her home."	None	None
42 CFR 441.301(c)(4)(vi)(B)(1): Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	SCDDSN Residential Habilitation Standards 2.4: "Each resident must be provided with a key to his/her bedroom. Only appropriate staff on duty should have access to keys. " SCDDSN Residential Habilitation Standards 2.5: "Any reason a provider believes a resident should not receive a key must go through the Human Rights Committee before withholding a key."	None	None
42 CFR 441.301(c)(4)(vi)(B)(2): Individuals sharing units have a choice of roommates in that setting.	SCDDSN Residential Habilitation Standards 2.7 " People who share a bedroom, have a choice of roommates in that setting." SCDDSN Residential Habilitation Standards 2.8 " People sharing apartments have a choice of roommates in that setting."	None	None
42 CFR 441.301(c)(4)(vi)(B)(3): Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	SCDDSN Residential Habilitation Standard 2.9: "People have the freedom to furnish and decorate their sleeping or living units within the lease/other agreement."	None	None

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(vi)(C): Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	SCDDSN Residential Habilitation Standards RH2.1 "People are supported to make decisions and exercise choices regarding their daily activities." SCDDSN Residential Habilitation Standard 2.10 "Individuals have access to food at all times."	None	None
42 CFR 441.301(c)(4)(vi)(D): Individuals are able to have visitors of their choosing at any time.	SCDDSN Residential Habilitation Standards RH 2.0: " Personal freedoms, such as the right to make a phone call in private, to decide to have a friend visit, choices as to what to have for a snack, etc. are not restricted without due process." **SC Code Ann 44-26-100.** General rights of clients; limitations on rights. (2) receive visitors. A facility must have a designated area where clients and visitors may speak privately	None	None
42 CFR 441.301(c)(4)(vi)(E): The setting is physically accessible to the individual	SCDDSN Residential Habilitation Standards, "Residential Habilitation services demonstrate due regard for the health, safety and well-being of each person when they: Meet or exceed applicable federal, state and local fire, health and safety regulations, policies and procedures." See also SCDDSN Directive 700-02-DD Compliance with the ADA	None	None
42 CFR 441.301(c)(4)(vi)(F): Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	SCDDSN Directive 535-02-DD: "The Human Rights Committee is to safeguard and protect the rights of individuals receiving services to ensure that they are treated with dignity and respect in full recognition of theirs rights as citizens as opposed to their rights as consumers."	State will include this specific requirement in documentation requirements.	12/31/2016
42 CFR 441.301(c)(4)(vi)(F)(1): Identify a specific and individualized assessed need.		State will include this specific requirement in documentation requirements.	12/31/2016

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(vi)(F)(2): Document the positive interventions and supports used prior to any modifications to the person-centered service plan.		State will include this specific requirement in documentation requirements.	12/31/2016
42 CFR 441.301(c)(4)(vi)(F)(3): Document less intrusive methods of meeting the need that have been tried but did not work.		State will include this specific requirement in documentation requirements.	12/31/2016
42 CFR 441.301(c)(4)(vi)(F)(4): Include a clear description of the condition that is directly proportionate to the specific assessed need.		State will include this specific requirement in documentation requirements.	12/31/2016
42 CFR 441.301(c)(4)(vi)(F)(5): Include regular collection and review of data to measure the ongoing effectiveness of the modification.		State will include this specific requirement in documentation requirements.	12/31/2016
42 CFR 441.301(c)(4)(vi)(F)(6): Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated		State will include this specific requirement in documentation requirements.	12/31/2016

HCBS Regulation	Supporting	Conflicting/Action Required	Timeline
42 CFR 441.301(c)(4)(vi)(F)(7): Include the informed consent of the individual		State will include this specific requirement in documentation requirements.	12/31/2016
42 CFR 441.301(c)(4)(vi)(F)(8): Include an assurance that interventions and supports will cause no harm to the individual.		State will include this specific requirement in documentation requirements.	12/31/2016

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 these policies and procedures to determine where changes needed to be made to bring waiver policies and procedures in line with the HCBS requirements. See Section 3.2 (pages 10-16) for full details on those changes.

SCDHHS has two Divisions, Community Long Term Care (CLTC) and Community Options, that are responsible for eight of the waiver programs. Staff in each division are reviewing waiver documents and related policies and procedures for areas that can be revised.

3.3.1. CLTC Compliance Actions. CLTC at SCDHHS operates the following three 1915(c) waivers:

- Community Choices (CC) waiver
- HIV/AIDS waiver
- Mechanical Ventilator Dependent waiver

CLTC will make several changes in its waiver document(s), program policies and procedures as it relates to HCBS compliance. The Community Choices waiver and the HIV/AIDS waiver were submitted to CMS for renewal on May 31, 2016 and were approved on August 19, 2016. The Mechanical Ventilator Dependent waiver had an amendment submitted to CMS on May 31, 2016 and was approved on August 17, 2016. Changes to those waiver documents to meet the HCBS standards were included and since approved, the appropriate changes will be made to corresponding waiver policies and procedures.

- Elements of the assessment tool used for Adult Day Health Care (ADHC) center site visits will be incorporated into CLTC's application process for potential providers. This will include the settings requirements detailed in 42 CFR 441.301(c)(4) as it relates to non-residential settings.
- The assessment tool used for Adult Day Health Care (ADHC) center site visits will be incorporated into CLTC's regular compliance reviews of ADHC's[10]. This tool covers the settings requirements detailed in 42 CFR 441.301(c)(4) as it relates to non-residential settings. These compliance reviews occur every 18-24 months.
- The language in the Community Choices waiver document was changed in the following areas:
    - The language for the ADHC service definition was revised to indicate that the service may *originate* from the ADHC, thus allowing providers flexibility to incorporate community access as part of its program.
    - The ADHC provider qualifications "other standard" was revised to include HCBS requirements.

[10] CLTC is the program area responsible for contracting with ADHCs, however please note that participants in the ID/RD and CS waivers may also use this setting.

Since the waiver was approved, it will be in effect on or before September 1, 2016. Additionally, the scope of work for ADHC's will also be changed to reflect this amended language.

Since CMS approved the CC waiver document, SCDHHS anticipates the changes to be made by December 31, 2016. SCDHHS will use its internal policy management review process for implementing any additions or changes to policy in accordance with standard agency practice.

3.3.2. Community Options Compliance Actions. Community Options at SCDHHS administers five 1915(c) waivers:

- Intellectually Disabled and Related Disabilities waiver (ID/RD)
- Community Supports waiver (CS)
- Head and Spinal Cord Injury waiver (HASCI)
- Pervasive Developmental Disorder waiver (PDD)[11]
- Medically Complex Children waiver (MCC)

Community Options operates the MCC waiver, which was submitted to CMS for renewal in September of 2016. Included in the waiver document were changes to meet the HCBS standards, which includes Appendix C-5 and Appendix D. Once approved, the appropriate changes will be made to corresponding waiver policies and procedures. The entire MCC waiver policy manual is currently under review and revision to include appropriate person-centered language, with specific focus on the Care Coordination chapter, along with any other appropriate HCBS changes. Due to extensive Request for Additional Information (RAI) questions from CMS on the waiver renewal, these changes are anticipated to be completed by April 2017, pending CMS approval of the waiver renewal.

Community Options and SCDDSN compliance actions. Community Options contracts with SCDDSN to operate the other four waivers listed above. Community Options created a joint workgroup with SCDDSN that began in fall of 2015 to review SCDHHS and SCDDSN waiver specific policy, procedures, directives, and standards based on the outcomes of this assessment. Together they will make the necessary changes to waiver manuals, operating standards and corresponding directives, and quality indicators to bring waiver policy and procedures in line with the HCBS requirements.

- The ID/RD waiver was submitted to CMS for renewal on Dec. 17, 2015, and is currently under review by CMS. Changes to the waiver document to meet the HCBS standards were included and once approved, the appropriate changes will be made to corresponding waiver policies and procedures.
- The CS waiver is up for renewal effective July 1, 2017. SCDHHS and SCDDSN began waiver renewal activities in June 2016. SCDHHS expects to present the proposed CS renewal plan to the Medical Care Advisory Committee in November 2016 and to begin the first required Tribal Notification starting in December 2016. Changes to the waiver document to meet the HCBS standards will be included and once approved by CMS, the appropriate changes will be made to corresponding waiver policies and procedures. SCDHHS anticipates these changes to be completed no later than March 2018.

[11] This waiver is transitioning to a state plan service.

- The HASCI waiver is up for renewal effective July 1, 2018. The Community Options Division of SCDHHS is scheduled to begin the Renewal process in approximately March of 2017. They are currently completing the HASCI Evidentiary Project in advance of the renewal. Changes to the waiver document to meet the HCBS standards will be included and once approved by CMS, the appropriate changes will be made to corresponding waiver policies and procedures. SCDHHS anticipates these changes to be completed by February 2019.

To ensure compliance overall with the settings requirements for the waivers they operate, SCDDSN will make any necessary changes to their standards and directives that relate to settings where waiver services are provided, such as the residential habilitation standards and all Day Service standards documents as noted above. SCDDSN also uses a Quality Improvement Organization (QIO) to assess service providers for contract compliance and quality assurance. The key indicators utilized by the QIO that determine contract compliance and quality assurance for waiver service providers will be updated to reflect any changes made in the standards and directives. The RFP for the SCDDSN QIO provider will be posted in spring of 2017 and will be effective October 1, 2017. The RFP is reflective of the required use of the key indicators by the QIO to ensure compliance with SCDDSN policies, standards, and directives which will include HCB settings requirements.

Many of the systemic changes were completed by the end of March 2016 and the remaining changes are anticipated to be completed as indicated in Section 3.2 and Section 3.3.

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.

As mentioned in the previous section, SCDHHS serves as the Administrative and the Operating Authority for four 1915(c) waivers: Community Choices (CC), Mechanical Ventilator Dependent, HIV/AIDS, and Medically Complex Children (MCC). With the introduction of Healthy Connections PRIME, the state retains full operational and administrative authority of this program and the waivers of which it is a part. Performance requirements, assessment methods, and methods for problem correction related to PRIME are described more thoroughly in the three-way contract between CMS, the CICOs and the state.

3.4.1. CLTC Ongoing Compliance. 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.

3.4.2 Community Options ongoing compliance – MCC Waiver. The Division of Community Options of SCDHHS serves as the Administrative and the Operating Authority for the Medically Complex Children (MCC) waiver. Community Options utilizes Phoenix as its data system for this waiver. The State Medicaid Agency and the Care Coordination Services Organization (CSO) will meet quarterly to monitor and analyze operational data and utilization from Phoenix to determine the effectiveness of the system and develop and implement necessary design changes. Annually the Medicaid Agency and CSO will review trended data to evaluate the overall quality improvement 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 a variety of measures which include revision of policies and procedures allowing SCDHHS to ensure compliance with the new HCBS standards.

3.4.3 Community Options ongoing compliance – SCDDSN operated waivers. SCDHHS maintains a Memorandum of Agreement (MOA) with SCDDSN and is implementing an Administrative Contract as well to outline responsibilities regarding SCDDSN's operations for the following waivers: Intellectually Disabled/Related Disabilities (ID/RD), Community Supports (CS), Head and Spinal Cord Injury (HASCI), and Pervasive Developmental Disorders (PDD). The MOA requires SCDDSN to submit any policy, procedure, or directive changes that are related to waiver operations to SCDHHS for review and approval. This secondary review allows for ongoing monitoring of systemic HCBS compliance.

SCDHHS also uses a Quality Improvement Organization (QIO), an additional contracted entity, quality assurance staff, and other agency staff to continuously evaluate the operating agency's (SCDDSN) quality management processes to ensure compliance. The QIO conducts validation reviews of a representative sample of initial level of care determinations performed by the operating agency (SCDDSN) as well as reviews all adverse level of care determinations. The additional contracted entity provides specific quality management tasks like provider agency operational audits. SCDHHS Quality Assurance (QA) staff conduct periodic quality assurance reviews that focus on the CMS quality assurance indicators and performance measures. To ensure compliance of quality and general operating effectiveness, SCDHHS will conduct reviews of the operating agency (SCDDSN). SCDHHS also utilizes its Division of Program Integrity, who works cooperatively with QA and Waiver staff, to investigate complaints and allegations of suspected abuse or fraud that may impact the system. Program Integrity also maintains a good working relationship with the Medicaid Fraud Control Unit at the Attorney General's office to investigate suspected fraud or initiate criminal investigations. Statewide problems can be addressed through different measures, including revisions of policy and/or procedures. These processes allow the state to take the necessary action to ensure compliance with the new HCBS standards.

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.

3.5 Residential Systemic Review

SCDHHS initially created a provider self-assessment tool that was designed to evaluate individual residential homes/settings for compliance with the HCBS criteria outlined in 42 CFR 441.301(c)(4). After a pilot test of the residential assessment tool was completed, it was determined that the residential assessment tool should be used to assess residential setting types owned and/or operated by a provider and not the individual settings themselves. Although provider agencies may operate multiple residential settings, they are operated using the same policies, procedures, and expectations set up by each agency and developed under the SCDDSN Residential Habilitation standards. The SCDDSN Residential Habilitation standards apply to all HCB residential providers in South Carolina.

There are six types of residential settings with approximately 1600 individual residential settings in total. Most of these settings are utilized by participants in the ID/RD and HASCI waivers, with some settings utilized by participants in the Community Choices and HIV/AIDS waivers. The description of the settings is listed in the "Assessment of Settings" section, page 33.

3.6 Process of Residential Systemic Review

The residential systemic review process, at the provider level, was accomplished through the C4 Individual Facilities/Settings self-assessment process.

3.6.1 C4 Individual Facilities/Settings Self-Assessment. The C4 assessment was designed to evaluate individual facilities to determine compliance with the HCBS criteria outlined in 42 CFR 441.301(c)(4). For residential settings, it also encompassed the requirements outlined in 42 CFR 4421.301(c)(4)(iv).

***Development of the assessment tool and criteria*.** An assessment tool was developed for residential facilities utilizing the criteria outlined in the 42 CFR 441.301(c)(4). Additionally, SCDHHS used the exploratory questions issued by CMS for the settings requirements. This tool was developed collaboratively with various stakeholders including providers, advocacy groups, and other state agencies. The assessment tool was used by providers to complete the self-assessment of their residential setting types (listed on page 37). The assessment was an online tool. For providers who did not have internet access, SCDHHS made available paper copies.

SCDHHS conducted a pilot test of the assessment tool to determine reliability and decide if any revisions needed to be made prior to distributing to providers. The pilot test was conducted with providers who own or operate home and community-based settings. The testing process also aided in the development of clear instructions on how to complete the assessment. Pilot testing began in January 2015 and was completed in March 2015. It was determined from the pilot test results that residential facilities would be assessed by residential setting type, which included a review of policies for the setting. The assessment along with the instructions can be found in Appendix D.

***Resources to conduct assessments*.** Resources to conduct the assessments came from SCDHHS personnel and financial resources as well as individual provider personnel and financial resources.

SCDHHS sent electronic notification of the residential self-assessment process to providers in April 2015. Following the notification the agency sent individual letters to providers with instructions on how to conduct the residential assessments in May 2015. For providers who did not have internet access, paper copies of the assessment tools were made available to them.

***Timeframe to conduct assessments*.** Individual letters were sent on May 15, 2015, to all HCBS residential providers with instructions on how to complete by July 1, 2015. Providers had 45 calendar days to complete and return the self-assessment for the settings they own and/or operate to SCDHHS. The deadline was established based on the letter's approximated day of delivery to providers.

Assessment review. SCDHHS published a global analysis document detailing the areas of concern systemically for all residential providers on November 23, 2015, on the HCBS website at https://msp.scdhhs.gov/hcbs/site-page/c4-settings-assessment. Residential providers will receive individual written feedback from SCDHHS after review of the self-assessments. Included in this written feedback will be SCDHHS' expectation that providers self-assess all of their settings to determine each setting's level of compliance with the new standards and establish any steps needed to come into compliance for any deficiencies. The individual feedback to all residential providers is anticipated to be completed before the independent site visits begin in January 2017.

3.7 Outcomes of Residential Systemic Review

Information gathered from the residential self-assessment by providers was compiled into one document for a global analysis of residential settings by setting type (Appendix F). The number of setting types represents the number of providers who own and/or operate that type of residential setting. It is not representative of the total number of individual residential settings.

Based on these initial results from individual providers, it appears that some of the individual programs may not be fully compliant with SCDDSN standards and may need to adjust their policies on the following:

- Visitation
- Lockable doors and privacy
- Staff accessing residents' rooms
- Proper storage of individual health information
- Requiring residents to participate in activities and/or adhering to prescribed schedules

Additionally, many programs need to create a lease or residential agreement, or revise and enhance their existing one, that meet the requirements listed in 42 CFR 441.301(c)(4)(vi)(A).

Other issues related to the physical characteristics of settings are discussed under the "Assessment of Settings" section of this document.

3.8 Actions to Bring the Residential System into Compliance

SCDHHS is developing initial individualized responses by provider for their residential setting types based upon their self-assessment results. The agency will leverage responses from the

self-assessment to identify any global policy or programmatic changes that are necessary for the provider to comport with the new HCBS standards. Progress towards these changes will be noted as independent site visits are conducted at individual residential settings. A final response to providers will be provided once the independent site visits are completed and that data is reviewed. For providers who still have corrective actions to make to come into compliance with the new standards after the site visit is completed, they will be required to create an action plan for their facility(ies) and indicate how they will bring it(them) into compliance with the requirements. That process is further detailed under "Assessment of Settings: Actions for Facilities Deemed not in Compliance" (page 44).

SCDDSN Residential Habilitation Standards were revised in June 2016 at RH 2.6 to state "A legally enforceable agreement (lease, residency agreement, or other form of written agreement) is in place for each person in the home setting within which he/she resides. The document provides protections that address eviction process and appeals comparable to those provided under South Carolina's Landlord Tenant Law, (S.C. Code Ann. § 27-40-10 et. seq.)." To ensure compliance of residential providers with the requirement of a legally enforceable tenancy agreement, SCDDSN developed a boilerplate lease for individuals receiving residential services and shared this sample with some of its residential providers. SCDDSN will finalize this language and include it in the SCDDSN Room and Board Directive 250-09-DD as a resource. SCDDSN anticipates that this will be completed by January 1, 2017. To allow time for residential providers to secure a certified property manager as required by state law, all residential providers will be given until July 1, 2017 to fully comply with this requirement.

Other global policy or programmatic changes that need to be made are addressed in the "Actions to Bring System into Compliance" section above.

3.9 Ongoing Compliance of Residential System

Ongoing compliance of the residential system will be accomplished in two ways. First, the ongoing compliance actions described above in section 3.4 for the overall system encompass any needed changes to and monitoring of residential policies, procedures, standards and directives. Second, residential providers will be subject to regular licensing reviews and compliance reviews as described in the "Assessment of Settings: Ongoing Compliance" section (page 48).

4. Assessment of Settings

4.1 Setting Types

There are four primary settings where home and community-based services are provided in the nine waiver programs, excluding private residences:

4.1.1 Day Services Facilities. There are approximately 83 Day Services Facilities most of which are licensed as an Adult Activity Center (AAC) and/or a Work Activity Center (WAC), an Unclassified Program and/or a Sheltered Workshop.

4.1.2 Adult Day Health Cares (ADHC). There are approximately 76 Adult Day Health Care settings, utilized in various waivers.

4.1.3 Pediatric Medical Day Care. This medical day treatment program provides health and social services needed to ensure the optimal functioning of children with medically complex needs, ages 4 weeks to 6 years old. This setting is only available to participants in the MCC waiver, and there is only one setting in the state.

4.1.4 Residential Homes. The residential habilitation service is provided in approximately 1600 residential settings, largely available through the ID/RD waiver and to HASCI waiver participants. There are five types of residential settings operated under SCDDSN policies, standards, and directives that are utilized to provide the residential habilitation service.

Supervised Living Program II (SLP II). This model is for individuals who need intermittent supervision and supports. They can handle most daily activities independently but may need periodic advice, support and supervision. It is typically offered in an apartment setting that has staff available on-site or in a location from which they may get to the site within 15 minutes of being called, 24 hours daily.[12]

Supported Living Program I (SLP I). This model is similar to the Supervised Living Model II; however, people generally require only occasional support. It is offered in an apartment setting and staff are available 24 hours a day by phone.[13]

Community Training Home I (CTH I). In the Community Training Home I Model, personalized care, supervision and individualized training are provided, in accordance with a service plan, to a maximum of two people living in a support provider's home where they essentially become one of the family. Support providers are qualified and trained private citizens.[14]

Community Training Home II (CTH II). The Community Training Home II Model offers the opportunity to live in a homelike environment in the community under the supervision of qualified and trained staff. Care, supervision and skills training are provided according to individualized needs as reflected in the service plan. No more than four people live in each residence.[15]

DSN Board/Qualified Provider Community Residential Care Facility (DDSN CRCF). For SCDDSN Residential Habilitation providers who offer the option of CRCF settings, this model, like the Community Training Home II 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[16]. These CRCF's are licensed by SC Department of Health and Environmental Control (SCDHEC) but must meet the SCDDSN Residential Habilitation standards which are above and beyond SCDHEC regulatory requirements.

4.1.5 Other Residential homes. There are other residential settings in South Carolina that may be utilized by waiver participants as their primary residence that are also utilized by

[12] SCDDSN (October 2016). *Residential Habilitation Standards*, p. 4.
[13] SCDDSN (October 2016). *Residential Habilitation Standards*, p. 4.
[14] SCDDSN (October 2016). *Residential Habilitation Standards*, p. 4.
[15] SCDDSN (October 2016). *Residential Habilitation Standards*, p. 4.
[16] SCDDSN (October 2016). *Residential Habilitation Standards*, p. 4.

individuals not receiving Medicaid HCBS in the community. Waiver participants are not receiving HCB services in these settings through their waiver.

Community Inclusive Residential Supports (CIRS). This model, previously named Customized Living Options Uniquely Designed (CLOUD), was created to promote personal development and independence in people with disabilities by creating a customized transition from 24 hour supervised living to a semi-independent living arrangement. Participants are responsible for selecting support providers, house mates, and housing.[17]

The CIRS model is not yet recognized as a waiver setting in which residential habilitation waiver services can be delivered since this was a SCDDSN state-pilot program. However, waiver beneficiaries may reside in these settings. The CIRS model is required to abide by all SCDDSN standards and directives, including the SCDDSN Residential Habilitation standards which include the requirements of 42 CFR 441.301(c)(4). For a review of applicable law, regulations, and policies that meet the HCBS requirements for the CIRS model, please review Section 3.2.2 Chart 2 above.

Community Residential Care Facility (CRCF). Licensed by SC Department of Health and Environmental Control (SCDHEC), CRCF's are residential settings that offer room and board and provide/coordinate a degree of personal care for a period. They are designed to accommodate residents' changing needs and preferences, maximize residents' dignity, autonomy, privacy, independence, and safety, and encourage family and community involvement.[18] Waiver participants in the Community Choices waiver, HIV/AIDS waiver, ID/RD waiver, Community Supports waiver, and/or the HASCI waiver may choose to live in CRCFs. These CRCFs are not Medicaid Waiver providers and room and board is either paid out of individuals private funds or may be derived from 100% state funds through the Optional State Supplement (OSS) program.

CRCFs that are not operated by SCDDSN providers do not have the same level of heightened protections and responsibilities to serve clients in accordance with the HCBS rule. As such, and noted in Section 3.2.1, there are many gaps within SC Code Reg. 61-84 that make these settings not fully compliant with the requirements of 42 CFR 441.301(c)(4). To ensure waiver beneficiaries are truly living in home and community-based settings, and not settings with institutional qualities, SCDHHS is currently drafting a new policy which would designate these beneficiaries as "Tier 3 CRCF clients." A Tier 3 client is a waiver beneficiary who resides in a non-SCDDSN operated CRCF. To serve a Tier 3 client, providers must comply with all of the requirements of 42 CFR 441.301(c)(4)(i-vi) and would be compensated at a higher rate. This new SCDHHS program and policy development is expected to be finalized by June 30, 2017 with an expected implementation date of June 30, 2018. This deadline reflects the SC Fiscal Year (ex. July 1, 2017 to June 30, 2018) since this program will likely include a fiscal request for the SC General Assembly to approve.

4.2 Setting Assessment Process

The setting assessment process was divided into two separate assessment phases, a provider self-assessment phase and an independent site visit phase. Additionally, a survey for waiver participants and a survey for family members of waiver participants was created to solicit

[17] SCDDSN (October 2016). *Residential Habilitation Standards*, p. 4.
[18] SCDHEC (June 26, 2016). *R.61-84, Standards for Licensing Community Residential Care Facilities*, p. 6

feedback on their experiences in the HCB settings that they or their family members use. They can be found at:

Beneficiary survey: https://msp.scdhhs.gov/hcbs/site-page/beneficiary-survey
Family survey: https://msp.scdhhs.gov/hcbs/site-page/family-survey

4.2.1 C4 Individual Facilities/Settings Self-Assessment. The C4 assessment was designed to evaluate individual facilities to determine compliance with the HCBS criteria outlined in 42 CFR 441.301(c)(4). This assessment tool was used for the providers' self-assessment and will be refined and revised for use on the independent site visits.

Providers self-assessed each of their individual non-residential settings. A self-assessment tool specific for non-residential settings was sent to every non-residential provider to complete on each of their non-residential settings. A copy of the non-residential provider self-assessment with instructions can be found in Appendix C.

As mentioned in the previous section, "Assessment of System-Wide Regulations, Policies, Licensing Standards, and Other Regulations," the residential setting assessment evolved into a systemic review of each residential setting type based on feedback provided from the pilot test of the tool. Residential providers completed this assessment for each type of residential setting they own and/or operate, not necessarily for each of their individual residential settings.

The process of the self-assessments is described below.

***Development of the assessment tools and criteria*.** Two assessment tools were developed for individual facilities: one for residential settings and another for non-residential facilities which include all day services facilities licensed by SCDDSN, Adult Day Health Care Centers, and the Pediatric Medical Day Care. The criteria used to create these tools is outlined in 42 CFR 441.301(c)(4). Additionally, SCDHHS used the exploratory questions issued by CMS for the settings requirements. The assessment tools were used by providers to complete the self-assessment of individual facilities. The setting-specific assessments were online tools. For providers who did not have internet access, SCDHHS made available paper copies.

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

SCDHHS sent electronic notification of the individual facility self-assessment process to providers in April 2015. Following the notification, the agency sent individual letters to providers with instructions on how to conduct the setting-specific assessments in May 2015. For providers who did not have internet access, paper copies of the assessment tools were made available to them.

Individual letters were sent on May 15, 2015, to all HCBS residential and non-residential providers with instructions on how to complete that self-assessment by July 1, 2015. All non-residential settings were assessed. As stated above, each residential provider only conducted a self-assessment of each of their residential setting types.

Any setting, residential or non-residential, that self-identified through the initial C5 assessment or the C4 self-assessment as potentially being subject to the heightened scrutiny process will be subject to the Home and Community-Based Settings Quality Review process (see page 52).

***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 had 45 calendar days to complete and return the self-assessment for the settings they own and/or operate to SCDHHS. This is for non-residential and residential settings. The deadline was established based on the letter's approximated day of delivery to providers.

Assessment review. SCDHHS individually reviewed all setting-specific self-assessments to determine each setting's status regarding HCBS compliance. Based on a review of the self-assessments, SCDHHS sent initial feedback to providers on their settings to help them get started on making any needed changes towards compliance prior to the independent site visits.

SCDHHS sent initial written feedback to Adult Day Health Care (ADHC) providers on their self-assessments on March 8, 2016. Initial written feedback was sent to SCDDSN Day services providers with facilities on March 22, 2016. Residential providers' self-assessments are under review. Included in their written feedback will be SCDHHS' expectation that residential providers self-assess all of their settings to determine each setting's level of compliance with the new standards and establish any steps needed to come into compliance for any deficiencies. The initial feedback to residential providers is anticipated to be completed before the independent site visits on those settings begin.

For the Pediatric Medical Day Care, SCDHHS reviewed the initial assessment and documentation gathered at the time of the site visit to determine if the setting is in compliance. The documentation included the admission packet, transportation agreement, and the family and patient policies. It was noted that this Pediatric Medical Day Care serves children ages 4 weeks up through age 6 years. It is licensed as a Child Care Center per the licensing requirements required by the SC Department of Social Services (SC DSS).

4.2.2. C4 Individual Facilities/Settings Independent Site Visits. The C4 independent site visits are designed to evaluate individual facilities to determine compliance with the HCBS criteria outlined in 42 CFR 441.301(c)(4). These will be conducted after the self-assessments by providers are complete. The assessment tools that were used for the provider self-assessments will be refined and revised for use on the independent site visits. The independent site visits will be completed by the following entities:

- SCDHHS staff will conduct the site visits for the Adult Day Health Care facilities and the Pediatric Medical Day Care.
- A contracted vendor will conduct the site visits for all of the SCDDSN Day Services facilities and residential settings.

The process of the site visits is described below.

***Development of the assessment tools and criteria*.** Three assessment tools were developed based on the tools used for the provider self-assessments: one for Adult Day Health Care Centers, one for all day services facilities licensed by SCDDSN, and one for residential settings. The Pediatric Medical Day Care site visit was conducted using the non-residential facility self-assessment tool. The criteria used to create these tools is outlined in 42 CFR 441.301(c)(4). Additionally, SCDHHS used the exploratory questions issued by CMS for the

settings requirements. SCDHHS will work with the contracted vendor to refine and finalize the assessment tools for the SCDDSN day services facilities and the SCDDSN residential settings.

***Resources to conduct assessments and site visits*.** Resources to conduct the site visits for the Adult Day Health Cares and the Pediatric Medical Day Care came from SCDHHS personnel and financial resources. Resources to conduct the site visits for the SCDDSN day services facilities and SCDDSN residential settings will come from SCDHHS personnel and financial resources in addition to the personnel and financial resources of a contracted vendor.

All non-residential, individual HCB settings will be subject to an independent site visit. They comprise approximately 76 Adult Day Health Care centers, approximately 83 discrete day services facility locations in which multiple non-residential settings may be located, and one Pediatric Medical Day Care. Individual site visits will occur after the provider self-assessments.

The Pediatric Medical Day Care site visit was conducted on January 21, 2016, by SCDHHS staff.

The Adult Day Health Care facility site visits will be conducted by SCDHHS staff. These began in late January of 2016.

SCDDSN day services facilities and SCDDSN residential settings will be subject to a site visit. SCDHHS will contract with an outside vendor to conduct site visits on the discrete day services facility locations and on 100% of the residential settings that are contracted with SCDDSN.

***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.

Independent site visits of the Adult Day Health Care settings are anticipated to take approximately 18 months to complete. This time frame began as SCDHHS started its site visits on ADHC settings in late January 2016. This extended deadline is due to a reevaluation of the time needed for the site visit, assessment and review process as well limited personnel resources.

To complete site visits on the SCDDSN Day Services facilities and residential settings, SCDHHS solicited proposals from qualified entities to conduct those site visits. Site visits by a contracted vendor on SCDDSN Day Services facilities and on residential settings contracted with SCDDSN are anticipated to begin in January 2017 after a contract has been awarded to a qualified vendor. These site visits are anticipated to take approximately 9 months to complete.

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 final written feedback from SCDHHS on each setting after the independent site visits are completed and both assessments are reviewed.

The Adult Day Health Care settings review will be done by SCDHHS staff. The review will include the self-assessment of the facility, the independent site visit of the facility which includes feedback from individual participants on the facility and its program, the facility's policies, and any beneficiary or family member survey data from that facility (mentioned at the beginning of section 4.2). SCDHHS' goal is to complete the final assessment review of Adult Day Health Care settings no later than August 2017. This extended deadline is due to a reevaluation

of the time needed for the site visit, assessment and review process as well limited personnel resources.

SCDHHS' goal to complete the final assessment review of SCDDSN day service facilities and residential settings is within one month after the completion of those site visits which is anticipated to be November 2017. The review will be done by SCDHHS staff and SCDDSN staff. The review will include the self-assessment of the facility/setting, the independent site visit of the facility/setting which includes feedback from individual participants on the facility/setting and its program, the facility's policies, and any beneficiary or family member survey data from that facility/setting (mentioned at the beginning of section 4.2).

4.3 Outcomes

The outcomes of the setting assessment process is listed below by the provider self-assessment outcomes and the final HCBS compliance outcomes, determined after independent site visits and full reviews are completed.

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 and will need to create a plan of compliance. The review for Adult Day Health Cares is anticipated to be completed by June 2017, with anticipated submission to CMS of an amended Statewide Transition Plan by the end of August 2017, after going through public notice and comment. The review for SCDDSN Day service providers and residential providers is anticipated to be completed by October 2017 with anticipated submission to CMS in an amended Statewide Transition Plan by December 2017, after going through another public notice and comment period.

4.3.1 C4 Individual Facilities/Settings Self-Assessment Outcomes. There was 100% participation by providers in completing the Non-residential settings self-assessment and 100% participation by providers in completing the Residential settings self-assessment.

To date, SCDHHS has gathered preliminary information from the Initial C5 Assessment (see page 52), the C4 provider self-assessment, and selected site visits conducted with the Technical Assistance Collaborative (TAC), Inc. (see page 55). Based on that information, SCDHHS estimates that the following number of settings fall into the following categories.

Non-residential Settings

	Number of Settings			
HCBS Compliance Category	**ADHC**	**AAC**	**WAC**	**Unclassified**
Fully comply with federal requirements	0	0	0	0
Do not comply – will require modifications	0	0	0	0
Cannot meet requirements – will require removal from the program/relocation of individuals	2[19]	0	0	0
Subject to State Review for possible Heightened Scrutiny Review by CMS	74	52	30	28

Residential Settings

	Number of Settings					
HCBS Compliance Category	**SLP I**	**SLP II**	**CTH I**	**CTH II**	**CLOUD**	**CRCF**
Fully comply with federal requirements	198	0	0	0	0	0
Do not comply – will require modifications	0	102	156	618	11	34
Cannot meet requirements – will require removal from the program/relocation of individuals	0	0	0	0	0	0
Subject to State Review for possible Heightened Scrutiny Review by CMS	3	4	0	50	4	12

As indicated in the charts above, SCDHHS is subjecting all non-residential facilities to state review for possible Heightened Scrutiny review by CMS (the HCB Settings Quality Review process, see page 52). The data in the charts above will likely change once the independent site visits are completed on the settings and a full review is completed for each individual setting.

After initial review, it was determined that the Pediatric Medical Day Care setting is compliant with the HCBS settings requirements. Systemically, its licensing laws and regulations are the same as any other child care center facility used by individuals not receiving Medicaid HCB services. Additionally, it meets the HCB settings requirements outlined in 42 CFR 441.301(c)(4) as appropriate for children in the age group served at this facility. Therefore, this environment meets the settings characteristics outlined in the HCBS Rule.

4.3.2. Final HCBS Compliance determination. The final level of HCBS compliance of individual settings will be determined after independent site visits and full reviews are

[19] This number represents two adult day health care centers located in other facilities

completed. SCDHHS will develop an individualized response by provider for each facility based upon the self-assessment and site visit. The agency will leverage responses from the self-assessment and site visit to identify gaps in compliance, as well as include any global policy or programmatic changes that are necessary for the provider to comport with the new HCBS standards as detailed in the "Assessment Review" section, 4.2.2, above (page 41). SCDHHS will develop these responses as site visits are completed.

To date, 24 Adult Day Health Care facility site visits have been completed, but have not undergone a full review. Those full reviews will be completed and responses will go out between November and December of 2016. Once those responses are sent out, SCDHHS will continue with the ADHC site visits.

The SCDDSN day services facilities and the residential providers contracted with SCDDSN will not have a final HCBS compliance determination made until the independent site visits are completed and a full review is done on each of those settings.

4.4 Actions for Facilities Deemed not in Compliance

Based on the outcome of the full review, providers must create a compliance action plan for their facility(ies) and indicate how they will bring it(them) 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. Compliance Action Plans for Adult Day Health Care facilities will be reviewed by SCDHHS staff. Compliance Action Plans for SCDDSN day services facilities and contracted residential provider settings will be reviewed by SCDHHS staff and SCDDSN staff. Each action plan will be reviewed to determine if the action plan is approved or needs revision. SCDHHS will send providers a letter indicating whether their action plan is approved and they can move forward with their changes, or whether the action plan needs further work. If the action plan needs further work, SCDHHS will give providers two weeks from receipt of the letter to make changes to the action plan and resubmit it to SCDHHS for approval. SCDHHS, and SCDDSN where appropriate, will review the revised action plan and will either approve it, or send notification to the appropriate program area to have the provider and setting reviewed for disciplinary action.

In addition to participating in the compliance action plan review process, SCDHHS will include the appropriate SCDHHS program area and/or SCDDSN on communication sent to providers at every step of the settings assessment process. SCDHHS will submit copies of the following to the appropriate SCDHHS program area and/or SCDDSN:

- Each provider's initial response letter to their self-assessment
- Each provider's final, individualized response letter
- SCDHHS' response to each provider's initial submission of a compliance action plan (whether it is approved or needs revision), along with a copy of the provider's initial action plan
- SCDHHS' response to providers who had to submit a revised action plan (whether it is approved or will be sent to program area for disciplinary action review), along with a copy of the provider's revised action plan
- A copy of a provider's approved action plan

This will allow the appropriate SCDHHS program area and/or SCDDSN to monitor progress toward compliance and continued monitoring of compliance through established quality

assurance and/or licensing protocols. Those protocols are detailed in the "Ongoing Compliance" section on page 48.

SCDHHS or a contracted vendor will conduct follow-up site visits to monitor the progress of those providers who must come into compliance, in accordance with their approved compliance action plans. These visits will occur after a facility's action plan has been approved by SCDHHS, but before the March 2019 compliance deadline. The appropriate SCDHHS program area and/or SCDDSN will receive the results of those follow-up site visits to assist them in monitoring the progress of their providers of becoming compliant with HCB standards.

CMS provided feedback to SCDHHS about "reverse integration" as a strategy for access and integration compliance, indicating it cannot be the only method providers use to meet access and integration compliance. To address this issue, SCDHHS will provide and share technical assistance with providers to help settings ensure they facilitate full access and integration for waiver participants into their community. This will include informal information sharing as site visits are conducted or informal meetings with providers are held, presentations done at provider association meetings, resources sent to providers, program areas and other state agencies, and formal feedback through individual responses to completed site visits to assist in this transition period. As mentioned in the "Actions to Bring System into Compliance" section (page 30), the assessment tool utilized for the ADHC site visits will be incorporated into the provider reviews that are conducted at least every 18-24 months by SCDHHS staff. This tool will cover the settings requirements detailed in 42 CFR 441.301(c)(4) as it relates to non-residential settings and will help measure compliance of settings providing access and integration for waiver participants into their community. SCDDSN, as noted on page 50, plans to incorporate elements of the two assessment tools (Day and Residential) used in the independent site visits into their provider assessment so that the new HCBS requirements detailed in 42 CFR 441.301(c)(4) are captured as part of the regular review process by the QIO.

4.4.1 Relocation of Waiver participants. Relocation of waiver participants may be needed due to a setting's inability to come into compliance with the new standards, or a setting is deemed by CMS through the heightened scrutiny process to not be home and community-based. SCDHHS will utilize the following procedures to transition participants in those settings to an appropriate setting. Each participant will have an individualized transition plan that is designed to meet their needs. These procedures may change to best meet the needs of the waiver participants.

Relocation of waiver participants in non-compliant Adult Day Health Care settings. SCDHHS would identify all participants authorized to receive services from the provider of the non-compliant setting. The appropriate area offices and/or agencies would be notified of the status of the setting as non-compliant. Additionally, the participants' case managers would be informed of the status of the setting as non-compliant so that they could reach out to their participants to inform them of the setting's status change. Case managers would provide the participants with a list of other available, compliant providers from which they can choose. Once a participant chooses a provider, the case manager can then make a referral and process an authorization for that participant for the new provider.

If the participant chooses not to use another provider, the case manager may explain alternative options should the waiver participant choose to still receive services from the non-

compliant provider setting. If there is no other viable provider, the case manager may work to authorize other services to substitute for the service change. The case manager would then monitor the participant to ensure that the new service package is meeting the participant's needs in accordance with the person-centered plan.

As noted in the table above (page 43) there are two adult day health care settings that cannot meet HCBS standards as they are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment. The number of waiver participants currently receiving services in those settings is 19 total. At this time, these are the only two settings believed to not be home and community based that will require relocation of waiver participants. Relocation of these waiver participants will not begin until after a site visit is completed on each site.

Relocation of waiver participants in non-compliant SCDDSN Day services settings. SCDDSN would identify all participants authorized to receive services from the provider of the non-compliant setting. The appropriate district offices and/or agencies would be notified by SCDHHS of the status of the setting as non-compliant. Additionally, the participants' case managers would be informed of the status of the setting as non-compliant so that they could reach out to their participants to inform them of the setting's status change. The appropriate District Office would facilitate the relocation of participants with the case managers and any other appropriate personnel, providing the participants with a list of other available, compliant providers from which they can choose. Once a participant chooses a provider, the case manager can then make a referral and process an authorization for that participant for the new provider. SCDDSN will keep SCDHHS informed of all waiver participant relocations.

If the participant chooses not to use another provider, the case manager may explain alternative options should the waiver participant choose to still receive services from the non-compliant provider setting. If there is no other viable provider, the case manager may work to authorize other services to substitute for the service change. The case manager would then monitor the participant to ensure that the new service is meeting the participant's needs in accordance with the person-centered plan.

Relocation of waiver participants in non-compliant Residential settings. There are two types of residential settings: those that are authorized to provide the waiver service of residential habilitation (and are providers contracted with SCDDSN) and those that are not but waiver participants may choose to live in the setting (see "Other Residential homes" on page 37).

If a CRCF that is not a provider of residential habilitation (and is not contracted with SCDDSN) is identified as a non-compliant setting, SCDHHS would identify the waiver participants who are living that non-compliant setting. To relocate those residents, the "Relocation Guidelines: Community Residential Care Facility (CRCF) Residents" developed by SCDHHS with SCDHEC, SCDMH, SCDSS, and SCDDSN will be utilized for proper protocol and procedure. See Appendix G for those guidelines.

If any residential setting that is contracted with SCDDSN to provide residential habilitation or provide residential services is identified as a non-compliant setting, SCDHHS will work with SCDDSN to identify all participants authorized to receive services from the provider who owns/operates the non-compliant setting. To relocate those residents of any SCDDSN funded community residential setting, the "Admissions/Discharge/Transfer of Individuals

To/From DDSN Funded Community Residential Settings" directive would be followed utilizing the "Transfer" protocol in Section III of the document (Appendix H). SCDDSN will keep SCDHHS informed of all waiver participant relocations.

If the participant chooses not to use another residential provider, the participant's case manager may explain alternative options should the waiver participant choose to still receive residential services from the non-compliant provider setting or still choose to live in the non-compliant residential setting.

SCDHHS will also be sure to notify all appropriate agencies/program areas of the status of the setting as non-compliant so that no new waiver referrals are made to that non-compliant setting.

Timeline. Relocation of waiver participants would be made after:

- SCDHHS has determined the setting (either day or residential) to be institutional and can no longer provide HCB services, or
- CMS has determined after a heightened scrutiny review that the setting is institutional and can no longer provide HCB services.

This process of relocation is anticipated to begin in mid-to-late 2017 as SCDHHS anticipates it will have concluded its independent site visits for Adult Day Health Cares by the end of June 2017. Those relocations are anticipated to be completed by the end of the 2017 calendar year. For waiver participants in SCDDSN Day service provider locations or residential provider locations that may be non-compliant, those relocations will begin later in 2017 at the conclusion of those site visits and should be completed by December 2018.

For waiver participants who choose to be relocated from either a non-compliant Adult Day Health Care or Day service setting, they will be given 30 days' notice that they will need to move to a new, compliant setting. This notice is intended to minimize disruption of services for the waiver participant. Additionally, each participant's case manager will ensure an individualized approach for transitioning each waiver participant from non-compliant settings.

For waiver participants who choose to be relocated to a compliant residential setting, they will be given 30 days' notice that they will need to move to that new, compliant setting. Additionally, each participant's case manager will ensure an individualized approach for transitioning each waiver participant from non-compliant settings. All other protocols outlined in either the "Relocation Guidelines: Community Residential Care Facility (CRCF) Residents" or the "Admissions/Discharge/Transfer of Individuals To/From DDSN Funded Community Residential Settings" will be followed as appropriate. This notice, along with the other detailed protocol, is intended to minimize disruption of services for the waiver participant.

4.4.2 Non-disability specific settings. SCDHHS will utilize technical assistance provided and conduct research on other states that have implemented the use of non-disability specific settings to explore what could be learned and adapted for South Carolina. SCDHHS will also explore potential relationships with existing local resources to see how they can be utilized to provide home and community-based services to waiver participants in a setting that is non-disability specific.

4.4.3 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 two program areas charged with this duty will be CLTC Division and the Community Options Division of SCDHHS. 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. The Community Options Division of SCDHHS will discuss with SCDDSN 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 by July 1, 2017.

4.5 Ongoing Compliance

Ongoing compliance of settings is currently monitored through SCDHHS policies and procedures as well as SCDDSN policies, procedures, standards and directives. The Pediatric Medical Day Care setting is monitored through SCDHHS policies and procedures in addition to regulatory compliance through SC DSS. There are established compliance systems in place at the agencies that monitor providers and their services to ensure they are compliant in providing the waiver services as stated in their contracts/enrollment agreements which are in line with the waiver documents. It is through these established systems, which are described below, that ongoing compliance of the settings with the new HCBS requirements will be monitored. As mentioned in the "Ongoing Compliance of the System" section of this document (page 32), the policies, procedures, standards and directives that direct the current compliance systems will be updated to reflect the new HCBS requirements to ensure the ongoing compliance of the settings.

SCDHHS serves as the Administrative and the Operating Authority for four of the 1915(c) waivers: Community Choices (CC), Mechanical Ventilator Dependent, HIV/AIDS, and Medically Complex Children (MCC). With the introduction of Healthy Connections PRIME, the state retains full operational and administrative authority of this program and the waivers of which it is a part. Performance requirements, assessment methods, and methods for problem correction related to PRIME are described more thoroughly in the three-way contract between CMS, the CICOs and the state.

4.5.1. Ongoing Compliance – Adult Day Health Care settings. The CLTC division of SCDHHS has waiver review as part of the overall CLTC Quality Assurance (QA) Plan. This includes review of Adult Day Health Care settings that provide home and community-based services. 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 24 months by SCDHHS staff (which includes reviews of ADHC's).

As part of the CLTC QA Plan, information gathered is taken to the Quality Improvement Task Force, which is scheduled to meet bi-monthly. Data is reviewed and discussed for discovery of noncompliance 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. This includes

corrective action for ADHC's. 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.

As mentioned in the "Actions to Bring System into Compliance" section (page 30), the assessment tool utilized for the ADHC site visits will be incorporated into the provider reviews that are conducted at least every 18-24 months by SCDHHS staff. This tool will cover the settings requirements detailed in 42 CFR 441.301(c)(4) as it relates to non-residential settings.

Ongoing monitoring and compliance of ADHCs will be conducted in two ways: by a designated staff member of CLTC to conduct on-site reviews and by a contracted vendor to collect participant feedback on their specific ADHC program. The reviews will begin 18-24 months after the initial assessment and compliance action period and will consist of an onsite visit to each facility to observe settings and participants' individual integration into the community. The staff member will utilize a questionnaire (to be completed by December 2017) that contains the same components of the initial assessment to complete the on-site reviews. The contracted vendor will also utilize a questionnaire that contains the same components of the initial assessment to collect participant feedback via telephone surveys. Currently, the State has a sanctioning policy ranging from corrective action plans up to termination and the State anticipates utilizing the same sanctioning policy to address noncompliance with the HCBS regulatory requirements. Tracking of compliance results will be stored in CLTC's Phoenix system for easy reporting.

In June 2017, CLTC will host a provider training to address recent changes to service provision related to HCBS requirements. Providers will receive an in-depth training on the regulations and ongoing expectations of reviews. The State will host additional trainings for providers as requested. 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 this established system of quality assurance review, provider compliance, and staff and provider training that ADHC settings' ongoing compliance of HCBS standards will be monitored.

4.5.2. Ongoing Compliance – Pediatric Medical Day Care. As stated previously, the Division of Community Options of SCDHHS serves as the Administrative and the Operating Authority for the Medically Complex Children (MCC) waiver. Community Options utilizes Phoenix as its data system for this waiver. The State Medicaid Agency and the CSO will meet quarterly to monitor and analyze operational data and utilization from Phoenix to determine the effectiveness of the system, including the provision of the Pediatric Medical Day Care service, and develop and implement necessary design changes. Annually the Medicaid Agency and CSO will review trended data to evaluate the overall quality improvement strategy. For settings compliance, an annual site visit to this facility, conducted by SCDHHS staff or a contracted vendor, will be instituted to ensure its ongoing compliance with HCBS standards. Information gathered from the site visit will be coupled with information reported during the annual unannounced inspection conducted by SCDSS to monitor compliance of this setting. These processes together allows a thorough assessment of areas needing improvement and

areas of best practice for SCDHHS to ensure compliance with the new HCBS standards. It is through this enhanced system of quality assurance that the Pediatric Medical Day Care setting ongoing compliance of HCBS standards will be monitored.

4.5.3. Ongoing Compliance – SCDDSN Day services facilities and contracted residential settings. SCDHHS maintains a Memorandum of Agreement (MOA) with SCDDSN and has four service contracts with SCDDSN that outline the provider responsibilities for the following waivers: Intellectually Disabled/Related Disabilities (ID/RD), Community Supports (CS), Head and Spinal Cord Injury (HASCI), and Pervasive Developmental Disorders (PDD). Additionally, SCDHHS is implementing an Administrative Contract to outline responsibilities regarding SCDDSN's waiver operations for each waiver. As mentioned in the "Actions to Bring System into Compliance" section (page 30), the Community Options Division of SCDHHS created a joint workgroup with SCDDSN that began in fall of 2015 to revise SCDHHS and SCDDSN waiver specific policy, procedures, directives, and standards including those related to compliance of providers and settings. Together they will make the necessary changes to waiver manuals, operating standards and corresponding directives, and key indicators to bring waiver policy and procedures in line with the HCBS requirements to ensure ongoing compliance of settings.

SCDHHS uses a Quality Improvement Organization (QIO), an additional contracted entity, quality assurance staff, and other agency staff to continuously evaluate the operating agency's (SCDDSN) quality management processes to ensure compliance. The QIO conducts validation reviews of a representative sample of initial level of care determinations performed by the operating agency (SCDDSN) and all adverse level of care determinations for all waivers operated by SCDDSN. The additional contracted entity provides specific quality management tasks like provider agency operational audits. SCDHHS Quality Assurance (QA) staff review all critical incident reports, ANE reports, results of QIO provider reviews, and receive licensing/certification reviews upon completion and any received participant complaints. SCDHHS QA staff conduct periodic quality assurance reviews that focus on the CMS quality assurance indicators, performance measures, financial expenditures, and appropriateness of services based on assessed needs. In addition, SCDHHS QA staff perform look-behind reviews of the SCDDSN QIO reports to ensure appropriateness of findings and the return of Federal Financial Participation (FFP) as warranted. SCDHHS QA staff also utilize other systems such as Medicaid Management Information Systems (MMIS) and Truven Analytics Healthcare to monitor quality and compliance with waiver standards. SCDHHS also utilizes its Division of Program Integrity, who works cooperatively with QA and Waiver staff, to investigate complaints and allegations of suspected abuse or fraud that may impact the system. Program Integrity also maintains a good working relationship with the Medicaid Fraud Control Unit at the Attorney General's office to investigate suspected fraud or initiate criminal investigations. To ensure compliance of quality and general operating effectiveness, SCDHHS will conduct a review of the Operating Agency (SCDDSN).

SCDDSN contracts with an independent Quality Improvement Organization (QIO) to conduct assessments of service providers by making on-site visits as a part of its quality assurance process. Providers are reviewed at least annually to every 18 months. This includes on-site visits to Day (non-residential) settings and residential settings. During these visits,

records are reviewed, participants and staff are interviewed, and observations made to ensure that services are being implemented as planned and based on the participant's need, and that they comply with contract and/or funding requirements and best practices. SCDDSN plans to incorporate elements of the two assessment tools (Day and Residential) used in the independent site visits into their provider assessment so that the new HCBS requirements are captured as part of this regular review process by the QIO.

SCDDSN also utilizes the independent QIO to complete annual Licensing Inspections for all Day Programs and certain residential settings (CTH Is, CTH IIs, and SLP IIs) contracted for operation by the agency. Any Community Residential Care Facilities (CRCF's) are reviewed for licensing inspections by the South Carolina Department of Health and Environmental Control (SCDHEC). Many of the current licensing standards for SCDDSN include the HCBS settings requirements. Other HCBS requirements for settings will be included in the quality assurance process as noted above.

As a policy and resource to provider agencies, SCDDSN has developed an Agency Directive 567-01-DD to address Employee Orientation, Pre-service and Annual Training Requirements. This directive covers all staff in provider organizations and ensures the philosophy and practical application of HCBS principles are present at each service location. Compliance with this directive is measured by the independent QIO through SCDDSN's Contract Compliance Review Process.

SCDDSN recognizes that the quality of the services provided is dependent upon well-trained staff. It is the intent of this directive to establish the required minimum level of staff competency so that those who support individuals with disabilities acquire the knowledge, skills and sensitivity to meet the needs of those individuals, consistent with the mission and vision of SCDDSN. SCDDSN has included requirements for person-centered, community based services within the context of various training modules and on-going training and technical assistance available to provider agencies.

Staff whose job descriptions indicate the duty of working directly with individuals who receive services shall be trained according to the minimum requirements set forth in the Directive. Competency will be demonstrated by a combination of written tests and skills checks. All staff are also required to receive a minimum of an additional ten (10) hours of job-related training annually, which will continue to focus quality service delivery. Professional staff meetings, workshops and conferences related to job functions may be considered in meeting this requirement.

As mentioned above, providers of HCB Services will be subject to Contract Compliance Reviews and Licensing Reviews by SCDDSN's contracted QIO. Employee training is a specific component within the Provider agency's Administrative Review. Key Indicators target training for Residential, Day Service, Respite, and Case Management Staff. As a quality improvement strategy, SCDDSN has developed a checklist for providers to use to ensure staff training requirements for new employees and for annual/ on-going training. In addition, provider funding may be recouped if the employees do not meet minimum training requirements.

SCDDSN monitors the results of the QIO's reports as they are completed (approximately 30 days after the review date) to monitor overall compliance with quality assurance measures and to ensure appropriate remediation. Any deficiencies found with the provider's compliance will require a written Plan of Correction that addresses the deficiency both individually and

systemically. This includes any deficiencies related to the new HCBS standards. A follow-up review will be conducted approximately 6 to 8 months after the original review to ensure successful remediation and implementation of the plan of correction. SCDHHS reviews the submitted results of DDSN QIO quality assurance review activities throughout the year.

SCDDSN also monitors the QIO reports of findings to identify larger system-wide issues that require training and/or technical assistance. The additional review is also completed in an effort to analyze trends that require remediation in policy or standards. Any issues noted are communicated through the provider network in an effort to provide corrective action and reduce overall citations. These issues are addressed through periodic counterpart meetings with SCDDSN personnel and representatives of Provider Associations. After much collaboration and the opportunity for public comment, policy revisions are implemented as needed. Current and proposed SCDDSN Directives and Standards are available to the public for review at any time on the SCDDSN Web-site at www.ddsn.sc.gov/aboutddsn.

It is through the SCDHHS QA process, SCDDSN service provider assessment process and the annual licensing inspection process that day and residential settings' ongoing compliance with HCBS standards will be monitored.

5. Heightened Scrutiny

Heightened scrutiny is the process of identifying settings that are presumed to have the characteristics of an institution and therefore are subject to more intense review (scrutiny) by the state. Using the criteria in 42 CFR 441.301(c)(5), SCDHHS will gather data on settings to determine whether the settings have home and community-based qualities. SCDHHS named this process the "HCB Settings Quality Review." After completing this review, the state will then determine if any of the settings will be submitted to CMS for final heightened scrutiny review.

5.1 HCB Settings Quality Review Process

SCDHHS has undertaken the following actions to identify settings that may need to go through the HCB Settings Quality Review process:

- Initial C5 Heightened Scrutiny Assessment
- C4 Individual Facilities/Settings Self-Assessment
- Geocode Data generation
- Consultation with Technical Assistance Collaborative (TAC), Inc.
- Public Input

The criteria that SCDHHS will use to determine which settings will be subject to the settings quality review includes the following:

- Does the setting have institutional characteristics as defined in 42 CFR 441.301(c)(5)(v)?
- Are there geographic location concerns that indicate potential clustering of settings or isolation from the community?
- Are there programmatic characteristics of settings that may have the effect of isolating individuals?

- Outcomes of the five (5) processes listed above

5.2 Initial C5 Heightened Scrutiny Assessment

This assessment was designed to gather initial data to assist SCDHHS in determining if any settings might be subject to the heightened scrutiny process detailed in 42 CFR 441.301(c)(5)(v). Providers self-reported if any of the settings they own or operate have the following qualities:

- Are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- Are in a building on the grounds of, or immediately adjacent to, a public institution;
- Has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

5.2.1 Development of the assessment tools and criteria. The assessment tool questions utilized the criteria directly from 42 CFR 441.301(c)(5). Providers listed the physical addresses of each facility they own/operate and answered a questionnaire to see if they would be subjected to heightened scrutiny. A letter with directions on how to complete the online assessment was mailed to providers. Providers were directed to review the CMS technical guidance on settings that have an effect of isolating individuals to assist in their answers to the assessment.

5.2.2 Resources to conduct assessments. Resources to conduct the assessments came from SCDHHS personnel and financial resources as well as individual provider personnel and financial resources.

5.2.3 Timeframe to conduct assessments. The "C5" (heightened scrutiny) assessment was mailed out the week of Nov. 3, 2014. Providers only completed one assessment to list each facility they own/operate. Providers had until Dec. 1, 2014, to complete the "C5" assessment and return it to SCDHHS. That was approximately 26 calendar days.

5.2.4 Assessment review. SCDHHS reviewed the initial data gathered from the "C5" assessments to prioritize site visits for any provider who self-reported that they may need to go through the formal heightened scrutiny process (SCDHHS HCB Settings Quality Review).

It became apparent during the collection of data and while communicating with the providers that SCDHHS was overly broad in its determination to send assessments to all providers. The following provider types do not have home and community-based settings to assess by the nature of the services provided:

- Early Intensive Behavior Intervention (EIBI) providers,
- Early Interventionists,
- Applied Behavior Analysis (ABA) therapy providers, and
- CRCF providers who do *not* serve HCBS waiver participants.

The C5 assessment data does not include any of the providers listed above. *Aggregate data results are provided in Outcomes section below.*

5.2.5 Outcomes. Providers completed the "C5" assessment based on their own interpretation of the regulations and materials provided by CMS on the settings that have the effect of isolating individuals. Actual compliance or non-compliance with 42 C.F.R. 441.301(c)(5) will be determined by SCDHHS or CMS.

Initial C5 Initial Assessment Results

Setting Type	# Settings Assessed	May be Subject to C5 Process
ADHC	43	4
AAC	55	9
WAC	32	3
Workshop	6	2
CLOUD*	7	0
CRCF	43	3
CTH I	98	0
CTH II	619	5
SLP I	88	0
SLP II	74	2
Total #	**1065**	**28**

**Customized Living Options Uniquely Designed – now CIRS; residential pilot project for individuals with disabilities that may be utilized by waiver participants*

- Provider Response: 67.46%
- Total Providers: 126
- Providers who responded: 85
- Providers who did not respond: 41

Although there was not 100% provider participation in completing the Initial C5 Heightened Scrutiny Assessment, the same questions were included as part of the C4 Individual Facilities/Settings Assessment in which there was 100% provider participation.

5.3 C4 Individual Facilities/Settings Self-Assessment

This self-assessment asked providers a series of questions that looked at the physical qualities of the setting and programmatic qualities of the setting. This was for all non-residential and residential settings. The details of this self-assessment process begin on page 38. The assessments can be found in Appendix C and Appendix D.

The results of the self-assessment that indicate physical or programmatic characteristics that may isolate waiver participants were used to determine if the setting should be placed under the HCB Settings Quality Review process. These identified settings will go through the HCB Settings Quality Review process that will take place concurrently with the independent site visits.

5.4 Geocode Data generation

SCDHHS had the Division of Medicaid Policy Research in the Institute of Families and Society at the University of South Carolina complete a geocode analysis of the physical locations of all HCB settings within South Carolina. This data has broken down the proximity of each setting to public and private institutions and other HCB settings. It shows generally where HCB settings are located in comparison to the broader community of each town. The information gathered

from this project will be used to determine if there are geographic location concerns that indicate potential clustering of settings or isolation from the community. These settings will be included in the HCB Settings Quality Review.

5.5 Consultation with Technical Assistance Collaborative (TAC), Inc.
Through the procurement process, SCDHHS selected TAC, Inc. to review South Carolina's HCBS residential programs.[20] TAC, Inc. conducted selected site visits around the state to get a general overview of what the waiver residential program looks like. Setting types visited included CRCFs, SLP IIs, and CTH IIs. TAC, Inc. furnished a report to SCDHHS in November 2015 with its findings. That report is included with this plan as Appendix I. The results from that report include identifying characteristics of residential settings that may not comport with the HCB standards. That information will be used to inform SCDHHS of any residential settings that should be placed under HCB Quality Settings Review because they display those characteristics.

5.6 Public Input
SCDHHS sought public input in the fall of 2015 on settings that might be subject to the heightened scrutiny process. Public notice was sent out on October 30, 2015 informing the public about SCDHHS HCB Settings Quality Review process. The public comment period was from November 2, 2015, to December 31, 2015. The public notice was communicated in the following ways:

- Posted on the SCDHHS HCBS website: https://msp.scdhhs.gov/hcbs/site-page/hcb-settings-quality-review
- Posted on the SCDHHS website: https://www.scdhhs.gov/public-notice/home-and-community-based-services-hcbs-final-rule-heightened-study-scdhhs-seeks
- Email sent via the SCDHHS listserv on November 3, 2015
- Individual emails sent to the HCBS Workgroup, providers, advocate groups, and other stakeholders on November 3, 2015

Additionally, a live webinar was held on November 18, 2015, to explain to the public what SCDHHS was looking for in this public input process. The webinar was recorded and made available for viewing, along with a transcript of the recording, on the Family Connection of SC website: http://www.familyconnectionsc.org/webinars

Information provided through this public input was reviewed for inclusion on the independent site visits that will occur beginning in 2016.

5.7 HCB Settings Quality Review Next Steps

5.7.1. HCB Settings Quality Review – Criteria. SCDHHS is using all of the above information to inform which settings will need to go through the HCB Settings Quality Review. After individual settings, residential and non-residential, have been identified to be included in the HCB Settings Quality Review process, they will be instructed to submit the following evidence to SCDHHS for review:

- License from applicable licensing agency

[20]TAC, Inc. was awarded a solicitation for consulting services on supportive housing and HCBS review April 2015.

- Zoning information of surrounding area
- Description of how the program or setting helps individuals access community settings used by individuals not receiving Medicaid waiver services
- Documentation of training for staff employed in the setting that indicate training or certification in home and community-based services
- Documentation of training for staff employed in the setting that indicate training or certification in person-centered thinking and/or planning
- Documentation of how individuals' schedules are varied according to the typical flow of the local community (appropriate for weather, holidays, sports seasons, faith-based observation, cultural celebrations, employment, etc.)
- Description of the proximity to avenues of available public transportation or an explanation of how transportation is provided where public transportation is limited
- Pictures of the site and other demonstrable evidence (taking in consideration the individual's right to privacy)
- Any other evidence the provider thinks will show the setting is integrated in the community to the extent that a person or persons without disabilities in the same community would consider it a part of their community and would not associate the setting with the provision of services to persons with disabilities.

For residential HCB settings, the following additional evidence must be submitted:

- Documentation that the setting complies with the requirements for provider owned or controlled settings at §441.301(c)(4)(vi)A through D:
    - Legally enforceable agreement between the provider and resident with:
        - same responsibilities and protections from eviction that tenants have under landlord/tenant law; OR
        - If tenant laws don't apply, the state must ensure written agreement is in place that addresses eviction appeals.
    - Provides an individual privacy in their sleeping/living unit
    - Entrance doors lockable by individual with only appropriate staff having keys
    - Individuals have a choice of roommate, if have to share
    - Individuals have the freedom to furnish and decorate their sleeping/living units
    - Individuals have the freedom and support to control their own schedules/activities
    - Individuals have the freedom to have access to food at any time
    - Individuals are able to have visitors, of their choosing, at any time.
    - Physically accessible to individuals.

5.7.2 Site visits. One part of the review process consists of a site visit to the setting under review utilizing the refined and revised C4 settings assessment. Interviews with waiver participants who utilize the setting will also be conducted. Additionally, SCDHHS will ask the provider of the setting to produce evidence that the setting does ***not*** have institutional qualities and either *does* meet or *could* meet, with corrective action, the HCB settings requirements. The evidence is outlined above and detailed at https://msp.scdhhs.gov/hcbs/site-page/hcb-settings-review.

5.7.3 Heightened Scrutiny Determination. Once the site visits are completed and all documentation, evidence and other data gathered are reviewed, SCDHHS will review all of the provided information to determine if the setting is one of the following:

1. Institutional and can no longer provide HCB services. This setting will not be sent to CMS for heightened scrutiny review.
2. Is not institutional and is home and community-based. This setting may need some corrective action to be fully compliant, but will go through the transition period.
3. Is presumed institutional, but is home and community based and will therefore be sent to CMS for final Heightened Scrutiny review.

For any setting that SCDHHS determines is subject to heightened scrutiny by CMS, SCDHHS will request that the provider produce evidence (if they have not already done so) that the setting does not have institutional qualities and does meet the HCB settings requirements. If the setting is home and community-based but requires some compliance action before it fully meets the HCB requirements, SCDHHS will work with the provider of that setting to ensure that corrective action is taken to meet the HCB requirements before submitting the setting to CMS for final Heightened Scrutiny review. The evidence will be reviewed by SCDHHS and may be made available for public comment.

Once SCDHHS has made its heightened scrutiny determinations, it will solicit an outside review of those determinations by advocacy groups. They will be provided with the regulatory language, applicable CMS guidance, information on the HCB Settings Quality Review process, and all documentation for each setting to evaluate SCDHHS findings. That feedback will be utilized to further refine SCDHHS heightened scrutiny submission to CMS.

5.7.4 Public notice and comment. After the determinations are made, SCDHHS will publish a list of settings it has identified as presumed institutional, but is a home and community-based setting, for public review and comment in the amended Statewide Transition Plan that will be submitted to CMS per CMS guidance. SCDHHS anticipates submission of a heightened scrutiny list of any Adult Day Health Care (ADHC) settings to CMS for review by October 27, 2017. The heightened scrutiny list of any Day Services facilities or Residential Habilitation settings will be submitted to CMS by December 29, 2017. SCDHHS will solicit comments from the public, including beneficiaries and/or personal representatives of beneficiaries, as to the qualities of each of these settings. The public will be able to suggest the addition of any setting to the list if a member of the public determines it may meet the definition of a setting that has institutional qualities that isolate individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. SCDHHS will conduct a site visit on any setting that is on the list. SCDHHS will take public comment under consideration, but ultimately any determination as to what settings SCDHHS will submit to CMS for its review, what settings will not need to be submitted to CMS for review, and what settings will no longer be able to provide HCBS after March 17, 2019, will be made by SCDHHS.

5.7.5 Submission to CMS for Heightened Scrutiny Review. After the public notice and comment period on the Statewide Transition Plan with the included list of settings subject to heightened scrutiny, SCDHHS will submit a final list of settings for CMS Heightened Scrutiny Review.

For any setting that is not home and community-based and remedial actions are not sufficient enough to make the setting compliant with the home and community-based regulations, appropriate action will be taken by SCDHHS to insure continuity of care for any current waiver participants' receiving home and community-based services in this setting. Procedures for participant relocation will be followed as outlined in the "Relocation of Waiver participants" section above (page 44).

Conclusion

If you have any comments or questions about this STP, or would like to obtain a copy of any of the documents mentioned in this STP, please contact Dr. Kelly Eifert, at:

Kelly.eifert@scdhhs.gov
or
Long Term Care and Behavioral Health
ATTN: Kelly Eifert, Ph.D.
South Carolina Department Health and Human Services
P.O. Box 8206
Columbia, South Carolina 29202-8206

Appendix A-1
Summary of the Public Meetings and Comments for the South Carolina Department of Health and Human Services HCBS Statewide Transition Plan

South Carolina Department of Health and Human Services (SCDHHS) held four public meetings in the following South Carolina cities:

- Nov. 13, 2014 Florence, SC
- Nov. 18, 2014 Greenville, SC
- Dec. 2, 2104 Charleston, SC
- Dec. 4, 2014 Columbia, SC

An online webinar was also held on Nov. 19, 2014. It was recorded and posted online at: familyconnectionsc.org/webinars. A transcript of the webinar was made available for later viewing during the public comment period.

These meetings provided information about the state's HCBS Statewide Transition plan and created an opportunity for the public to comment on the plan. The public was provided the proposed information prior to the meetings, and the proposed Statewide Transition Plan was posted online for public viewing and comment. The public was also provided the opportunity to submit comments through the mail and/or comment section on the SCDHHS HCBS website.

South Carolina Department of Health and Human Services HCBS Statewide Transition Plan

Per 42 CFR 441.301 (c)(6)(ii)(A), the state is submitting a Statewide Transition Plan to detail how South Carolina will come into compliance with the new home and community-based (HCB) settings requirements.
The following is a summary of the actions identified in the Statewide Transition Plan:

Assessment of System-Wide Regulations, Policies, Procedures, Licensing Standards and Other Regulations

- A list of regulations, policies, procedures, licensing standards and other regulations that directly impact home and community-based settings will be compiled.
- They will be read and reviewed to determine that the laws, regulations, etc. are not a barrier to the settings standards outlined in the HCBS Rule.
- Changes will be pursued as appropriate for any regulations, policies, etc. that do not meet the HCBS settings requirements outlined in the CFR.

Assessment of Settings

- Identification of all Home and Community-Based settings.
- Identification of any HCB settings that might be subject to the heightened scrutiny process.
- Distribution of self-assessment tool to providers for completion.
- Review of individual self-assessments; based on the results SCDHHS will provide individualized responses to providers on each setting.

- Site visits of HCBS settings will be conducted by SCDHHS after self-assessments are completed.
- Action Plans will be developed by providers and be approved by SCDHHS to bring settings into compliance with the HCBS rule.

Communication and Outreach

- Provide several methods of communication with the public regarding general information on the HCBS Rule and Statewide Transition Plan.
- Provide public notice and comment on the Statewide Transition Plan (details below).

42 CFR 441.301 (c)(6)(iv)(B) directs the state to submit with the Statewide Transition Plan a summary of the comments received during the public notice period.

Summary of comments and clarifications February 2015

1. Systems Policies and Assessments

   Comments/Questions

   - Is there a list of the laws compiled yet that impacts HCBS rules, settings available on the DHHS site?
     - *No, but a summary of the review, which includes the laws and regulations reviewed, will be included in the Statewide Transition Plan. This will be posted on the SCDHHS website and the SCDHHS HCBS website.*
   - The transition plan should include a timeline for SCDHHS to develop a comprehensive oversight process to ensure compliance with the Final Rule.
     - *Oversight of compliance will be incorporated into existing oversight structures as these HCB standards will be the "new norm". That timeline for policy revision is included in the plan.*

2. Facilities and Assessments

   Comments/Questions

   - Provider assessments are coming out in January?
     - *Yes, we still anticipate January. We will post information on the HCBS website and contact providers directly, which is included in the plan.*
   - Providers complete the self-assessment and then it takes about 18 months for SCDHHS to review it, is that right?
     - *That is the anticipated time frame for review, including a site visit, which is included in the plan.*
   - C4 assessments are for day facilities, right?
     - *The C4 assessment is for all home and community-based settings, day and residential, as specified in the plan.*
   - Is the result of the review made public?
     - *We will not publish individual assessment outcomes. It may be provided in aggregate data to CMS indicating how many settings are compliant, how many may become compliant, and how many may not be able to be compliant.*
   - What about enforcement by 2019?

- *After March 17, 2019, only providers who are fully compliant with the HCBS rule will be able to provide home and community-based services.*

- In addition to SCDHHS assessments of existing facilities and services, SCDHHS should contract for trained external reviewers who can assess the opportunities for interaction outside the facility or program. While self-assessment is a valuable first step in prioritizing assessments, all programs and facilities should be reviewed by an independent assessor.
  - *We appreciate the commenter's suggestion. As we move forward through the assessment and transition period, SCDHHS will explore contracting outside/independent reviewers to assess opportunities for interaction outside the facility or program.*
- Will adult day health care be included with the HCBS changes?
  - *Yes, they are listed as a setting type in the plan.*
- On page 2 of the Statewide Transition Plan, item A. 2 (b) lists Adult Day Health Centers as serving frail elderly and people with physical disabilities which is not exactly correct. In some communities the adult day health centers are serving people with intellectual disabilities, but who have no physical disability.
  - *The descriptor was meant to define the primary population served, not the only population served.*
- If day programs are not meeting the new standards, will SCDHHS work with them?
  - *Yes, SCDHHS will provide feedback on the self-assessments and the site visit results along with providing guidance on action plan development. This is noted in the plan.*
- In day programs, we want our people out in the community, yes, but some of them require total care and where will these clients fit?
  - *Each individual has a person-centered service plan which reflects their individual needs and goals when it comes to choosing appropriate services.*
- The day programs have a big imbalance. If you want to work in an integrated work setting, you won't be picked up and taken to work. There is transportation to day programs only.
  - *We appreciate this comment and SCDHHS is actively engaging with providers and stakeholders on this issue.*
- Day program availability is an issue. Is there any plan for increasing the capacity in day programs?
  - *We appreciate this comment and SCDHHS is actively engaging with providers and stakeholders on this issue.*
- Is there a Best Practices Guide regarding Day Services that has been developed since it was mentioned that South Carolina is looking at what other states have done?
  - *Currently there is not a guide but information is being collected from other states.*
- Will some service arrays for day services be different or change, like respite?
  - *It is possible that service arrays may change.*
- Several questions were asked regarding the addition of beds/residential facilities for people with intellectual disabilities and with physical disabilities. It is needed; when will it happen?
  - *We appreciate this comment and SCDHHS is actively engaging with providers and stakeholders on this issue.*
- A few questions were asked about some of the group homes that are larger. Given the intent of the CMS regulations, is there a need to reduce or modify them to comply? Are we ensuring qualities of home life is achieved?

- *The C4 self-assessment will be the best tool to determine the need to change the size of the setting and make accommodations for the current residents if needed.*

- The transition plan should have a timeline to develop smaller scale settings than the four bedroom group home that has been the model for many years.
  - *We appreciate the commenter's suggestion. SCDHHS has contracted with the Technical Assistance Collaborative to assist the state in developing a strategic plan to create and enhance housing options in the state.*
- The transition plan should have a short deadline for development of appropriate language to comply with the requirement for a legally-enforceable tenancy agreement.
  - *We appreciate the commenter's suggestion. Where providers may not have legally-enforceable tenancy agreements in place (based on assessment and other information gathered), that feedback and direction will be given to providers in their feedback from SCDHHS. Deadlines will be a part of a provider's action plan for correction.*
- Integration in the community should mean that these individuals have meaningful choice of other housing at the same age as other young adults. The transition plan does not include consideration of this issue.
  - *We appreciate the commenter's suggestion. SCDHHS has contracted with the Technical Assistance Collaborative to assist the state in developing a strategic plan to create and enhance housing options in the state.*
- The goal of the five year plan was to open beds at regional centers, right? This would mean respite was decreased over time with beds but this will actually increase, right?
  - *There was a goal to expand residential services, but not related to the regional centers.*
- What is the plan to de-bed state run facilities (institutions) across all populations?
  - *That has not been a focus in developing this transition plan.*
- How does the CMS Rule apply to institutional regional services?
  - *It doesn't apply to the institutional population.*

3. Person-centered Planning/Conflict-Free Case Management

Please note that while the Statewide Transition Plan only focuses on HCB settings, policies, and public notice, the State received several comments on this topic and wanted to include them here.

Comments/Questions

- How are we determining that Freedom of Choice is provided and understood?
  - *This will most likely be addressed through proper training for case managers and education for beneficiaries and families.*
- Most importantly, Person Centered Planning should be the basis of all plans. Supported Decision Making needs to be at the heart of this as well.
- I know much of the emphasis is on environmental issues pertaining to the physical layout of programs. I know the idea of smaller group settings is something to strive for, but the financial resources to do some of the necessary changes may be huge and difficult to achieve. I would suggest that a key focus needs to be on the issue of choice and promoting individualized services. Even in larger group settings choice and individualized services can be achieved. I don't want to see us (providers) using environmental factors as an excuse for not promoting the person centered services. Please make sure that you strengthen the notion of choice and individualized services in your plan.

- *We agree with the emphasis on choice for beneficiaries and will make sure to address it as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.*

- The transition plan should include development of protocols for the person-centered plan and criteria for individuals who provide the assessments used in developing the plan. It should include a timeline for training participants and providers about the goals of the Final Rule and the person-centered planning process.
  - *The guidelines regarding the waiver transition plans indicate that they must only address the HCBS rule settings requirements and how those will be assessed and brought into compliance. We do appreciate the commenter's suggestion and will take it under advisement as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.*
- As part of the transition plan to improve meaningful choice for participants, P&A suggests review of the National Core Indicators Data on choice of home and work.
  - *This review will be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule.*
- The transition plan should include a process to clarify the appeals process for applicants and recipients of SCDDSN services and members of HMOs. SCDHHS should amend its fair hearing regulation to clarify what it covers and provide an adequate cadre of professional hearing officers to ensure thorough, fair and expeditious review of all decisions affecting Medicaid recipients.
  - *Review of all processes related to HCB services will be part of the system assessment of policies as addressed in the plan.*
- How much influence/impact will families have in this new Person-centered planning world if the beneficiary wants something else?
  - *The case manager acts as a mediator to resolve disputes in those instances.*
- Please explain conflict free case management.
  - *To separate service coordination from the same entity that provides services to promote and ensure freedom of choice for the beneficiary.*
- For conflict-free case management, what does the transition plan look like? Do individual providers or the state have to deal?
  - *Yes, it will be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule.*
- Are we looking at other service arenas where conflict free case management already exists?
  - *Yes.*
- Do you have a vision for Conflict Free Case Management?
  - *It is being developed. There will be a sub-group created to review what we do now and what other states are doing, and to develop some potential models.*
- Will case manager positions be cut?
  - *It is unclear at this time, but SCDHHS' ultimate goal is to provide conflict free case management in compliance with the HCBS standards.*

4. Other comments

Comments/Questions

- What does this mean to families? Will services change? Will they lose their waiver?

- *Services should only change to be compliant with the new standards, which seek to improve services. No one should lose their waiver; this is not the intent.*

- How will this affect other waiver services?
  - *Any providers of waiver services will have to comply with the new standards by March 17, 2019.*
- Will these changes hold up the people getting the services?
  - *No, SCDHHS does not anticipate any disruption in services to beneficiaries.*
- Is there something or somewhere I can comment here on this web site?
  - *Yes, online comments can be made at: https://msp.scdhhs.gov/hcbs/webform/comments-questions.*
- What do you want from those attending the public meeting and those in the DSN community? What do you need in terms of the Final Rule?
  - *We need ideas from the community and we need everyone to be open to new ideas that are coming as a result of the HCBS requirements. Implementing these new standards will require input from community and flexibility in changes to services. We would like everyone to stay connected to the process and assessments as they happen.*
- What are we doing with the community and how they treat people with disabilities?
  - *This will be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule and working with advocates and partner agencies.*
- What about the safety factor for the disabled being integrated into the community?
  - *Safety is part of the service plan and specific to the individual and would be part of the person-centered planning process.*
- Is there a time frame for potential changes to the service area?
  - *For the HCBS Rule, the deadline is by March 2019.*
- Would 1915(i) help increase capacity?
  - *It may once it is available.*
- What happens to DSN Boards and their roles?
  - *DSN Boards will continue to provide services as they transition to compliance with the new standards.*
- How is the CMS Rule going to help get more providers, especially in places where there are not a lot of options currently?
  - *That is unclear. We must make this field more attractive and get more quality providers trained.*
- Does the plan for self-assessment that is going out in January mention anything about increases in the cost of care due to criteria?
  - *It doesn't address that specific question.*
- If there is an increased expectation of services, there may be an increase in the cost of providing the service.
  - *Yes, the self-assessments will be important to help us determine the potential financial impact.*
- What is the additional burden and impact on providers?
  - *We want beneficiaries' needs met and services and settings brought up to standard. All providers will self-assess which may help better determine the burden and/or impact to providers.*

- Are there currently programs, supports and/or dollars to hire and encourage businesses to hire individuals with disabilities?
  - *There are some federal incentives for businesses where a certain percentage of employees have disabilities. SC Vocational Rehabilitation Department also deals directly in this area.*
- What about employment issues? Small towns don't employ people with disabilities.
  - *We appreciate this comment and SCDHHS is actively engaging stakeholders on this issue.*
- Are there states where Vocational Rehabilitation offers incentives and/or contributes to help in finding employment?
  - *SCDHHS is meeting with SC Vocational Rehabilitation to determine how both agencies can work together on this issue.*
- Jobs in the community may pay less than what people make in the day center. Will people be forced to give up their center job?
  - *No, it is about personal choice*.
- SCDHHS should increase coordination with the Vocational Rehabilitation Department to increase training and employment opportunities outside the DSN Board framework. SCDHHS should work with the Governor's office to implement the National Governors' Association employment initiative.
  - *This work may be part of SCDHHS' work to examine all aspects of coming into compliance with the HCBS rule.*
- We moved here from Pennsylvania. There, working with our OVR was important. They could get job supports through a waiver with DSN. Transportation is an issue. Here public transportation is slim. How do we address these issues?
  - *Transportation in this state is an issue. SCDHHS is actively engaging providers and stakeholders on this issue.*
- Protection and Advocacy (P & A) strongly supports this initiative and the expanded inclusiveness of individuals with disabilities. However, they would like to see external assessments of the facilities in addition to the self-assessments. Also, they support meaningful choices for individuals once school is completed. They would like to involve others besides SCDDSN and SCDHHS to help move in right direction. Vocational Rehab was mentioned as one agency to help better support these endeavors. They would like to see continued oversight to insure best practices and noted that abuse and neglect was easier to spot when individuals were institutionalized. It is harder to spot when individuals are spread out in homes, etc. This needs to be monitored closely. P & A appreciates SCDHHS moving South Carolina forward in these areas.
- The transition plan should include a strategy to gather information about the availability of community programs which could be modified to include waiver participants.
  - *We appreciate the commenter's suggestion and will take it under advisement as we move forward through the assessment period.*
- The transition plan should address the need for SCDHHS to work with SCDHEC and other members of the Adult Protection Coordinating Council to assess the need for changes in the system for investigating abuse/neglect/exploitation of vulnerable adults. Data from SLED show that many cases occur in CTH IIs. As individuals move into smaller facilities there will be a need to determine the best way to protect them. P&A believes that procedures to protect individuals in the community are an essential part of person-centered planning and SCDHHS

quality control. The transition plan should also consider development of an adult abuse registry as a means of protecting waiver participants.
    - *Review of all processes related to HCB services will be part of the system assessment of policies.*
- There were comments on how SCDHHS needs to look at how we can share resources between agencies.

5. Response

The guidelines regarding the Statewide Transition Plan indicate that it must only address the HCBS rule settings requirements and how those will be assessed and brought into compliance. Many individual responses have been provided above that note what was included as part of the Statewide Transition Plan. Other comments will be taken under advisement as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.

Appendix A-2
Summary of the Public Notice and Comments for the South Carolina Department of Health and Human Services HCBS Statewide Transition Plan

South Carolina Department of Health and Human Services (SCDHHS) provided the following public notice for the revised South Carolina HCBS Statewide Transition Plan:

- Advertisement in The State newspaper, Feb. 23, 2016
- Advertisement in The Post and Courier, Feb. 24, 2016
- Advertisement in The Greenville News, Feb. 23, 2016
- Online webinar on Feb. 24, 2016. It was recorded and posted online at: familyconnectionsc.org/webinars. A transcript of the webinar was made available for later viewing during the public comment period.
- On the SCDHHS HCBS website
- On the SCDHHS website under "Public Notice"
- On the SCDDSN website
- On the Family Connections website
- On the Able South Carolina website
- On the SC Developmental Disabilities Council website
- On the AARP South Carolina website
- On the Protection & Advocacy (SC) website
- Sent out via the SCDHHS listserv
- Available in print form at the SCDHHS main office lobby (Jefferson Square, 1801 Main Street, Columbia, SC)
- Available in print form at all Healthy Connections Medicaid County Offices
- Available in print form at all Community Long Term Care (CLTC) Regional Offices

The revised Statewide Transition Plan was posted online for public viewing and comment. The public was also provided the opportunity to submit comments through the mail and/or comment section on the SCDHHS HCBS website.

South Carolina Department of Health and Human Services HCBS Statewide Transition Plan

The South Carolina Department of Health and Human Services (SCDHHS) gives notice that the revised draft Statewide Transition Plan, required per Centers for Medicare and Medicaid Services (CMS) Home and Community-Based Services (HCBS) Rule (42 CFR 441.301(c)(6)), is available for public review and comment. The revised South Carolina Statewide Transition Plan will be submitted on March 31, 2016. It will be effective upon CMS approval.

The following is a summary of the revisions made in the draft Statewide Transition Plan (originally submitted Feb. 26, 2015):

Communication and outreach

- Update provided on this public notice and comment period for the Feb. 24, 2016, draft of the Statewide Transition Plan (page 5).

Assessment of system-wide regulations, policies, procedures, licensing standards and other regulations

- Laws, regulations and licensing standards for Pediatric Medical Day Care settings were added and reviewed as they are a setting in the Medically Complex Children's waiver (page 10).
- Residential setting self-assessment was moved to this section as the self-assessment was a policy review by setting type and not by individual setting (page 7).
- Under "Outcomes of System-wide review," the identified policy in #7 for waiver participants traveling out of state was identified in SCDHHS policy in addition to SCDDSN policy (page 13).
- "Outcomes of Residential Systemic review" added on page 13.
- "Actions to bring the System into Compliance" has been expanded to provide greater detail on immediate compliance actions (page 14).
- "Actions to bring the Residential System into Compliance" added on page 16.
- "Ongoing Compliance of System" has been expanded to provider greater detail on ongoing compliance actions (page 16).
- "Ongoing Compliance of Residential System" added on page 17.

Assessment of settings

- In the identification of settings, differentiated between Community Residential Care Facilities (CRCFs) that contract with SCDDSN to provide residential habilitation and those CRCFs that do not (page 18).
- Added the Pediatric Medical Day Care setting (page 19).
- Updated the timeframe for when individual site visits will occur (page 20).
- Under "Outcomes," updated the number of settings, by setting type, estimated to fall into each of the HCBS Compliance Categories (tables, pages 21 and 22).
- "Actions for Facilities Deemed not in Compliance" has been expanded to provide greater detail on immediate compliance actions (page 22).
- "Actions for Facilities Deemed not in Compliance" includes a section on "Relocation of Waiver Participants" (page 23).
- "Ongoing Compliance" has been expanded to provider greater detail on ongoing compliance actions for HCBS settings (page 25).

Heightened Scrutiny

- This section was pulled out of the "Assessment of settings" section and given much more detail on what this process will look like for providers with settings subject to heightened scrutiny. It begins on page 27.

South Carolina Home and Community-Based Services Statewide Transition Plan Timeline

- The timeline was updated to reflect the changes and additions listed above along with updated dates (page 32).

Overall revisions

- The following appendices were added:
  - Systemic Review Spreadsheet (Appendix B)
  - C4 Day (non-residential) Setting HCBS Self-Assessment (Appendix C)
  - C4 Residential Setting HCBS Self-Assessment (Appendix D)
  - Non-residential self-assessment Global Analysis (Appendix E)
  - Residential self-assessment Global Analysis (Appendix F)
  - Relocation Guidelines: Community Residential Care Facility (CRCF) Residents (Appendix G)
  - Admissions/Discharges/Transfer of Individuals to/from SCDDSN-Funded Community Residential Settings (Appendix H)

42 CFR 441.301 (c)(6)(iv)(B) directs the state to submit with the Statewide Transition Plan a summary of the comments received during the public notice period.

Summary of comments and clarifications February 2016

SCDHHS received a total of 10 public comments, six (6) submitted via mail and four (4) submitted during the webinar. Each comment and response is provided below.

1. Systems Policies and Assessments

   Comments/Questions

   - As part of assessing whether vocational services are provided in a community-based environment, DHHS should review any agreements with the Vocational Rehabilitation Department in order to increase training and employment opportunities outside the DSN Board framework.
     - *We appreciate the commenter's suggestion and staff at SCDHHS will review the relationship with Vocational Rehabilitation for opportunities to increase training and employment services for waiver beneficiaries.*
   - (Webinar) How is DDSN Directive 533-02-DD, "Sexual Assault Prevention, and Incident Procedure Follow-up," not in compliance?
     - *As written, DDSN Directive 533-02-DD mandates that a beneficiary's family/family representative/guardian is notified is an incident occurs. This may violate a beneficiary's right to privacy, if that beneficiary does not want their family/family representative/guardian to be notified.*

2. Facilities and Assessments

   Comments/Questions

   - We continue to support the need for trained external assessors to conduct site reviews.
     - *We appreciate the commenter's suggestion. SCDHHS has requested money in the upcoming state fiscal year budget to contract with an external reviewer to conduct,*

at minimum, the residential site visits, but this is dependent upon the final SC legislative budget allocation to SCDHHS for state FY17.

- Community Residential Care Facilities, especially the very large ones, are highly segregated environments. Whether or not technically subject to heightened scrutiny, they should be extremely carefully reviewed.
  - *We appreciate the commenter's suggestion and SCDHHS will engage in discussions with SCDHEC (the regulatory body for CRCF's) on how the two agencies can work together on this issue.*
- Assessment of residential options should at least include family homes as South Carolina has the second-highest percentage of individuals with developmental disabilities who still reside in their family home. Assessing true participation and true integration in the community may include if these individuals have meaningful choice of other housing options as other adults [*not receiving HCBS*] of the same age. The transition plan does not include consideration of this issue.
  - *We appreciate the commenter's suggestion and note that the regulations allow states to presume a waiver participant's private home meets the HCB settings requirements. The person-centered planning process would be utilized to address this commenter's concern about other housing options.*
- (Webinar) Will the findings of the site visits be available for public review?
  - *SCDHHS will be posting the findings of the Quality Review assessments (heightened scrutiny process) to scdhhs.gov/hcbs.*
- (Webinar) Can you explain how person-centeredness and choice will figure into the assessment of programs?
  - *When site visits are conducted, SCDHHS will look at the physical characteristics of the setting, look at service plans for individuals served in that setting, and observe the activity in that setting/program. Additionally, whether at the time of the site visit or at a separate time, interviews or focus groups with individuals who utilize the setting will be conducted to get additional feedback on the qualities of the setting.*

3. Other comments

Comments/Questions

- Regarding making HCBS recipients aware of their rights to integrated services and how to complain or appeal, a new section in 42 CFR 441.745(a)(1)(iii) (State plan HCBS administration) states, "A state must provide individuals with advance notice of and the right to appeal terminations, suspensions, or reductions of Medicaid covered services as described in part 431, subpart E." DHHS should have one path of appeal for all stages of Medicaid…the current process of separate review through DDSN, and internal processes for HMO appeals, causes confusion and delay for recipients.
  - *We appreciate the commenter's suggestion. It is important to note that the cited regulatory reference is only for state plan home and community-based services which South Carolina currently does not have and therefore is not applicable here and is outside the scope of the Statewide Transition Plan. It is important to clarify that SC Medicaid uses MCO's (Managed Care Organizations) not HMO's. We assume that was the commenter's intent. HCBS waiver participants cannot also be enrolled*

with Medicaid MCO's; they are typically eligible for fee-for-service state plan services instead. It is also important to note that MCO's and Medicaid waivers require appeal processes for their enrollees as stated in 42 CFR 438.400(a)(3) and 42 CFR431 Subpart E respectively. However, to address some of the commenter's concerns, SCDHHS will be updating SC Regulations 126-150 through 126-158, which address SCDHHS appeals, as appropriate this calendar year (2016). Additionally, a new "Appeals and Hearings" webpage was created as a resource for all Medicaid recipients.

- The transition plan should include a strategy to gather information about the availability of community programs which could be modified to include waiver participants, such as community day programs run by Area Agencies on Aging and city and county recreation commissions.
    - *We appreciate the commenter's suggestion but note that the Statewide Transition Plan is for the transition of existing services and settings into compliance and this comment references what would be considered new settings. However, SCDHHS will explore this as an option for expanding existing services utilizing new settings.*
- (Webinar) For someone who provides services for medically fragile children, specifically safe transportation, will the waiver cover these services in full including vests for children with behavioral problems or older teens attacking the driver?
    - *This question would be better asked directly of one of SCDHHS' waiver administrators to be able to go fully in depth on the issues with this question as this is outside the scope of the Statewide Transition Plan. If you are unsure who to contact, please contact Kelly Eifert or Cassidy Evans directly and we will connect you with the proper person (our emails were on the slides for the webinar).*

Appendix A-3
Summary of the Public Notice and Comments for the South Carolina Department of Health and Human Services HCBS Statewide Transition Plan

South Carolina Department of Health and Human Services (SCDHHS) provided the following public notice for the revised South Carolina HCBS Statewide Transition Plan, dated Aug. 17, 2016:

- Public notice printed in the following newspapers:
  - The State (Columbia and midlands area)
  - The Post and Courier (Charleston and lowcountry area)
- On the SCDHHS HCBS website
- On the SCDHHS website under "Public Notice"
- On the SCDDSN website
- On the Family Connection of SC website
- On the Able South Carolina website and Facebook page
- On the SC Developmental Disabilities Council website
- On the AARP South Carolina website
- On the Protection & Advocacy (SC) website and Facebook page
- On the IMPACT South Carolina Facebook page
- Sent out via the SCDHHS listserv
- Available in print form at the SCDHHS main office lobby (Jefferson Square, 1801 Main Street, Columbia, SC)
- Available in print form at all Healthy Connections Medicaid County Offices
- Available in print form at all Community Long Term Care (CLTC) Regional Offices
- Nine public meetings were held August – October of 2016 to discuss the statewide transition plan. These meetings were held in the following cities:
  - Aug. 23, 2016 Anderson, SC
  - Sept. 8, 2016 Fort Mill, SC
  - Sept. 13, 2016 Charleston, SC
  - Sept. 15, 2016 Greenville, SC
  - Sept. 20, 2016 Myrtle Beach, SC
  - Sept. 22, 2016 Florence, SC
  - Sept. 27, 2016 Aiken, SC
  - Sept. 29, 2016 Beaufort, SC
  - Oct. 4, 2016 Columbia, SC
- For those unable to attend a public meeting, a live webinar was held on Tuesday, Aug. 23, 2016. This meeting was recorded and made available for viewing, along with a transcript of the recording, on the Family Connection of SC website. Registration was online here: http://www.familyconnectionsc.org/training-events//sc-home-and-community-based-services-statewide-transition-plan
  - The webinar presentation, along with the transcript, is available at: https://msp.scdhhs.gov/hcbs/site-page/presentations

- The public was also provided the opportunity to submit comments through the mail and/or comment section on the SCDHHS HCBS website.

South Carolina Department of Health and Human Services
HCBS Statewide Transition Plan

The South Carolina Department of Health and Human Services (SCDHHS) gives notice that the revised draft Statewide Transition Plan, required per Centers for Medicare and Medicaid Services (CMS) Home and Community-Based Services (HCBS) Rule (42 CFR 441.301(c)(6)), is available for public review and comment. The revised South Carolina Statewide Transition Plan will be submitted by or on Oct. 28, 2016. It will be effective upon CMS approval.

The following is a summary of the revisions made in the draft Statewide Transition Plan (last submitted March 31, 2016):

Communication and outreach, renumbered section 2

- Update provided on this public notice and comment period for the Aug. 17, 2016, draft of the Statewide Transition Plan (page 7).

Assessment of system-wide regulations, policies, procedures, licensing standards and other regulations, renumbered section 3

- Systemic Crosswalk reformatted to include language that indicates compliance or non-compliance, remediation actions and timelines for those actions. It is no longer Appendix B but incorporated into the narrative (pages 9 – 27).
- All residential setting self-assessment information moved together to sections 3.5–3.8 for easier reading.
- "Ongoing Compliance of System" has been expanded to provide greater detail on ongoing compliance actions (page 30).

Assessment of settings, renumbered section 4

- Updated section 4.2 to include beneficiary survey and family survey information (page 35).
- Updated the timeframe for when individual site visits will occur (page 37).
- Under "Outcomes," updated the setting types estimated to fall into each of the HCBS Compliance Categories to delineate "AAC, WAC and Unclassified" day program types (table, page 38).
- "Relocation of Waiver Participants" section added current estimated number of beneficiaries that will need to be relocated from non-compliant settings (page 41).
- The timeline for the relocation of waiver participants was clarified (page 42).
- "Ongoing Compliance" has been expanded to provide greater detail on ongoing compliance actions for HCBS settings (page 43).

Heightened Scrutiny, renumbered section 5

- Clarified in section 5.1 the criteria to be used to determine which settings will be subject to the Home and Community-Based (HCB) Settings Quality Review.
- Section 5.8, "next steps" includes a new introductory section that identifies what information will be used in the review of settings that go through the Quality Review Process. This information will help SCDHHS determine which settings will be submitted to CMS for their Heightened Scrutiny review.

South Carolina Home and Community-Based Services Statewide Transition Plan Timeline

- The timeline was removed to reduce confusion to the reader. All information was incorporated into the narrative.

Overall revisions

- Document renumbered to make the "Introduction" section 1, all other sections subsequently renumbered as noted above.
- The following appendices were re-lettered and removed from the main document and placed online (with links to the direct appendices in the document) at https://msp.scdhhs.gov/hcbs/site-page/statewide-transition-plan:
  - C4 Day (non-residential) Setting HCBS Self-Assessment (Appendix B)
  - C4 Residential Setting HCBS Self-Assessment (Appendix C)
  - Non-residential Self-Assessment Global Analysis (Appendix D)
  - Residential Self-Assessment Global Analysis (Appendix E)
  - Relocation Guidelines: Community Residential Care Facility (CRCF) Residents (Appendix F)
  - Admissions/Discharges/Transfer of Individuals to/from SCDDSN-Funded Community Residential Settings (Appendix G)
  - TAC, Inc. Report: Review and Feedback on the HCBS Final Rule Transition (Appendix H)

42 CFR 441.301 (c)(6)(iv)(B) directs the state to submit with the Statewide Transition Plan a summary of the comments received during the public notice period.

Summary of comments and clarifications October 2016

SCDHHS received a total of 39 public comments, twenty-two (22) from public meetings, four (4) submitted via mail and thirteen (13) submitted during the webinar. A summary of comments and responses is provided below.

1. Communication and Outreach

   Comments/Questions

   - Several questions were asked on the availability of the presentation on the web and via hard copy.
     - *Copies of the presentation (webinar and public meetings) can be mailed. It is also posted on the SCDHHS HCBS website, along with the recording of the webinar and*

the accompanying transcript (https://msp.scdhhs.gov/hcbs/site-page/presentations). The link to the presentation was posted in the webinar chat box during the webinar as that was easier for participants to access immediately.

- Can we share your powerpoint from today's presentation with our staff?
  - *Yes! You can find it on our website here: https://msp.scdhhs.gov/hcbs/site-page/presentations*
    It is the last presentation on the list.
- (Webinar) For the public meetings, will conference lines be available?
  - *No, but please note that the main content will be the same, so the only difference will be question and answer time at each public meeting.*
- Where on your website are the links for the family consumer surveys?
  - *Those are going to be found under the tab that says "Members and Families." If you scroll over that, it should pop down and menu, and you should be able to see the surveys there (https://msp.scdhhs.gov/hcbs/site-page/members-families).*
- Who are you (SCDHHS) working with in the community to address community attitudes about having people with disabilities integrated into and be a part of the community?
  - *SCDHHS cannot address societal attitudes about people with disabilities being a part of their community – and certainly could not do it alone. That is definitely a culture change. This is not a part of the Statewide Transition Plan, but certainly something important to address and would really be a community effort.*
- Are there people not "in the system" that are on the (HCBS) workgroup?
  - *We do have members that are waiver participants or family members of waiver participants, as well as members of Advocacy and support groups (like Protection & Advocacy, Able SC, SC Developmental Disabilities Council, and Family Connection of SC).*
- If you (SCDHHS) get local community leaders to facilitate a discussion on HCBS and these changes, you would get a packed house and great feedback and information.
  - *Please send us their names and contact information so we can arrange for that!*

2. Systems Policies and Assessments

Comments/Questions

- The charts showing state law and regulations impeding compliance with the Final Rule indicate several times that a DDSN directive would "Remediate conflicting statutes through sub-policy guidance." While as a practical matter the directives (or standards) may permit compliance, they are not statutes, or even regulations (which DDSN has not promulgated for most settings such as CTHs, etc.). DDSN directives and standards can be changed at any time and cannot superseded a statute. Until residents of DDSN-licensed facilities have the same legal protections as residents of DHEC-licensed facilities (that is, the right to participate in the development of regulations, with legislative review), they do not have the same rights as other community members.
  - *We have addressed the language use in the systemic assessment. However, the issue of SCDDSN developing regulations is a matter to directly address with that*

agency. We will share these concerns with SCDDSN as we (SCDHHS) do not have authority to tell another state agency to promulgate regulations.

- How will employment be used for non-restrictive and community work?
  - *There is not that level of policy detail in the Statewide Transition Plan. However, SCDDSN began the "Employment First" initiative, released in October of 2015. Additionally, we will look at the Day Program structure to see how that program can move people towards independence. We want to move away from Sheltered Workshops as the final stop for employment but rather use it as a stepping stone towards employment.*
- We are a new provider and will be starting job coaching soon. It is our understanding that we can only provide 10 hours of job coaching. Will there be any increase in that hour limitation?
  - *We will look into that to first make sure there is a limitation, and not as a result of a waiver cost capitation or waiver budget issue. When we found out the answer, we will let you know.*
- DHEC Regulation 61-25, Retail Food Establishments, is being applied to CRCFs operated by qualified providers of waiver services in South Carolina. I fail to understand how any provider could comply with this regulation while coming into compliance with the HCBS Final Rule.
  - *We were not aware of that issue, so we thank the commenter for bringing that to our attention. We will look into that.*
- Have you taken a look at what the budgetary impact will be of these requirements?
  - *We recognize that there will be an impact, particularly as services should be delivered in an individualized, person-centered manner. However, we also have no good answer to that as it will be a different measure from provider to provider depending on the services they provide and the people they serve.*
- Are Medicaid rates going to increase to pay for all this individualized service?
  - *Adult Day Health Care rates increased in August 2016, and other rates are being reviewed by leadership. We do know we have to be budget neutral, particularly in light of the Governor's recent announcement that our agency (SCDHHS) should prepare for a 3% budget cut for next year. We do need to look at our waiver rate structure to see where changes can be made.*
- Where is the money going to come from to hire staff to have these individualized services?
  - *We don't have a good answer for that. We do know we have to be budget neutral, particularly in light of the Governor's recent announcement that our agency (SCDHHS) should prepare for a 3% budget cut for next year. We do need to look at our waiver rate structure to see where changes can be made.*

3. Facilities and Assessments

Comments/Questions

- I was reading the timeline you listed for your settings reviews. Are you still planning to do an RFP (request for proposal) for the site visits and do you still plan to have that begin in January of 2017?
    - *Yes. The RFP went out in September and our plan is to have that awarded and meet with whomever gets the contract before the holidays and have them begin work in January 2017.*
- **None** of the Work Activity Centers were in compliance (page 38). The Transition Plan should include more specific information about how DHHS and DDSN will phase out segregated work environments. P & A recommends consideration of the process that Tennessee is using to change the state's approach to work for waiver participants.
    - *We want to clarify that the Statewide Transition Plan stated that it was "estimated" that none of the Work Activity Centers were compliant and would be subject to heighted review. That final determination will not be made until all the site visits and evidentiary review is completed. Once that is complete, SCDHHS and SCDDSN will have a better picture of what changes each Work Activity Center will need to make to become compliant. We appreciate the commenter's suggestion of reviewing Tennessee's process and have shared that resource with all DSN board providers.*
- The transition plan refers to CMS feedback about "reverse integration" as a strategy for access and integration compliance. As we stated in our previous letter, the transition plan should include a strategy to gather information about the availability of community programs which could be modified to include waiver participants, such as community day programs run by Area Agencies on Aging and by city and county recreation commissions.
    - *We want to clarify that CMS stated to SCDHHS that "reverse integration" could **not** be the only strategy for access and integration compliance and that will be clearly indicated in that section (page 41). We appreciate the commenter's suggestion but note that the Statewide Transition Plan is for the transition of existing services and settings into compliance and this comment references what would be considered new settings. However, SCDHHS will explore this as an option for expanding existing services utilizing new settings.*
- What should Adult Day Health Care centers, buildings with walls, do about serving the elderly and still comply with community integration?
    - *Buildings with walls in and of themselves are not bad, it is how you design and provide your services that matter. If you take a person-centered approach, you can still meet the new requirements.*
- The concern about individual homes and services creating isolation for people –does that just apply to waiver services?
    - *The regulation applies to the waiver, but we will be looking at individual outcomes to make sure that the provision of waiver services does not unintentionally contribute to a person being isolated in their home.*

- Where can I get information on the 'certified property manager' required on page 36? This was not a term I was familiar with. Can you point me to some materials? (Webinar follow up question)
  - *The link to the South Carolina Code of Laws, Title 40, Chapter 57, is below.* https://urldefense.proofpoint.com/v2/url?u=http-3A__www.scstatehouse.gov_code_t40c057.php&d=DQICAg&c=l2yuVHfpC_9lAv0gltv6ZQ&r=-5IkRZLUI8twNLKgryBah2C6Ehg7XYuDutLl2EEF2Es&m=CvkEK7DWwo1Hbd_-qkLxCucJXticgPivRD8N1ZIeJ9s&s=bcKRkS1FMgZCTHZpPqQPO4RftDSTEcqK_Tsyfv2WMHA&e=
    Property manager is defined here.
- When everything is complete (referring to site visits), and it is determined that a particular [provider-owned or controlled] home does not meet the requirements, who is involved in coming up with an action plan to address that? Is it just SCDHHS? The provider and SCDHHS? Is SCDDSN included?
  - *All three entities are included. We [SCDHHS] will include the appropriate program areas (and in this case, Community Options and also SCDDSN) in all communication regarding settings. Getting a setting to compliance will not work if all parties are not involved and included in the process.*
- If a provider has some homes that are next to each other, or maybe on the same street, how many is "too many"? What is the guidance?
  - *There is a not a magic number that would automatically indicate a home (or homes) would go through heightened scrutiny, or our Settings Quality Review process. We will make sure to have the context of the setting - meaning, where is it located within the broader community? What do the lives of the persons who live there look like? We will take all pieces of information to make a determination of compliance (or a setting that can get to compliance), not just rely on one single piece of information.*
- What about if you have 3 or 4 waiver participants in an apartment complex, and one of them chooses an apartment that is next to their friend (who is also a waiver participant)? Is their choice taken into consideration?
  - *Yes. Again, we will look at the situation, the location, in full context. Many of us like to live near friends, so it does not seem unusual that a waiver participant would want to live near friends.*
- I want to share a comment that came from a presentation I did to our Board of Directors on the Statewide Transition Plan. The concern that seemed to rise to the top for them was about the issue of a waiver participant being able to lock their door (to their room). The board members had concerns about that as it relates to a participant's safety if something were to happen to the participant and their room door was locked. They wanted to be sure a plan was in place to plan for that. In general they were nervous about keys.
  - *Thank you for that comment. It is important to be person-centered first and foremost and to not make any wholesale decisions on who can and cannot have keys. Start with the presumption that everyone can have a key and lock their door, and then work through issues individually as they arise. It is making sure that no one*

has a right taken away without properly exploring all other least restrictive alternatives, and vetting that through your Human Rights Committee, and documenting it thoroughly in the person's service plan.

- Are these rules likely to result in even fewer available residential placements? I'm already under the impression that the only way my daughter will ever receive residential placement is if I die, at which point she will be an emergency placement. It's pretty rough to know that your family would be better off if you were dead.
  - *The intent of the rule is not to result in fewer residential placements, just that simply that they are integrated into the community. The primary residential provider, SCDDSN, is very aware of residential capacity issues, and they are constantly working on how to resolve that problem. They're not trying to get rid of any residential placements; that's not the goal of this rule. It's just to make sure that people who are in a residential placement have the same access to the community that they live in as everybody else who lives in that community.*

4. Heightened Scrutiny

Comments/Questions

- We agree that existing day programs should be subject to heightened scrutiny. P & A has reviewed the TAC document. At page 3 the TAC report states:

  > Homes are staffed "24/7," however most residents participate in the residential providers' day programs. When residents were onsite during the visits and could be interviewed, some reported they were fine with attending the day program or sheltered workshop, while others said they would prefer to do something else. One facility director commented that some residents don't want to attend their sheltered workshop but said it "gets them out of the house." It's **questionable that all residents within a home would choose to attend the provider-run day program if they had an alternative** (emphasis in original). The final rule stresses informed choice of daily activities.

  The TAC report's recommendations state:

  7. The Department must address options for daily activities in order for residents to have meaningful choice. Options include expanding Supported Employment services, training providers and residents on the ability to earn wages and not lose entitlements and increasing the use of natural supports and community programs.
  8. Once provider assessment results are analyzed, begin development of detailed action plans and timelines for those remedial actions which will require substantive time and effort.

  P & A agrees that residents should have more choice than staying in the home or going to a segregated program.
  - *Thank you for our comment and agreement of our approach.*
- After reading the transition plan several times I noticed that there is section under 5.8.4 public notice and comment that provides the public the opportunity to comment on presumed institutional settings. I have a couple of concerns about this. First, is the issue of confidentiality and privacy, by pointing out these facilities to the public we are

letting the public know locations where individuals with disabilities live. If we are supposed to create a "normalization" of our waiver participants' lives, wouldn't this seem to go against that? There are HIPAA issues as well as safety concerns. Just as you and I do not need to let people know where we live, so do our individuals and their guardians who may wish to keep that information private. The second issue could be even more problematic. Historically, we have had difficulty developing homes in community settings, so we have developed them quietly and as a result have become fully integrated in the neighborhoods. By providing the public with locations, we are potentially opening the doors to neighbors who previously did not know that these homes existed in their neighborhood and now that they know, could lead to new issues. Finally, I think the whole idea of getting public comment on the location of the home, whether or not it is institutional or not is really a matter for the Department and the individuals who are living in those homes to decide. It is not the public's prerogative to decide these things. If that were the case, many of our homes in the community that currently exist would never happen. I strongly urge you to reconsider this element of your transition plan.

- *Thank you for your feedback. You echo concerns that we have already raised to CMS. Just to clarify, it is not a HIPAA concern, it is a Medicaid Confidentiality concern. Here are the citations we brought to CMS' attention:*
  42 CFR 431 Subpart F [431.305(b)(1) specifically cites addresses as a type of information to be safeguarded]
  At our state level: South Carolina Code of Regulations, Chapter 126, Article I, Subarticle 4 "Safeguarding of Client Information" (specifically 126-171 cites addresses as protected information).

  *We are required by CMS to do public notice for heightened scrutiny, but for the residential settings, we (the state and CMS – and other states as well) are trying to figure out the best way to do this without marking a particular home as a residence for people receiving waiver services. It is important to note that this is if **only** a residential home is sent to CMS for the heightened scrutiny review. CMS has indicated they are going to post guidance on this issue soon. Thank you for taking the time to read through the plan and address this concern. It helps us further bolster our own concerns about unnecessarily identifying the people we serve as Medicaid waiver recipients in their communities.*

- For Heightened Scrutiny, there are some group homes (in the SCDDSN system) where isolation is intended because the individuals living there were involved in the criminal justice system and were judicially committed to SCDDSN. How do we deal with that in light of the rule? We, as an agency, are mandated to serve them.
  - *It was clarified that some of these individuals are on a waiver. We will meet with SCDDSN to gather more details on this particular population as this may require review by SCDHHS Legal Counsel.*
- We continue to be concerned about Community Residential Care Facilities, especially large ones and those in isolated areas; whether or not technically subject to heightened scrutiny, they should be extremely carefully reviewed.

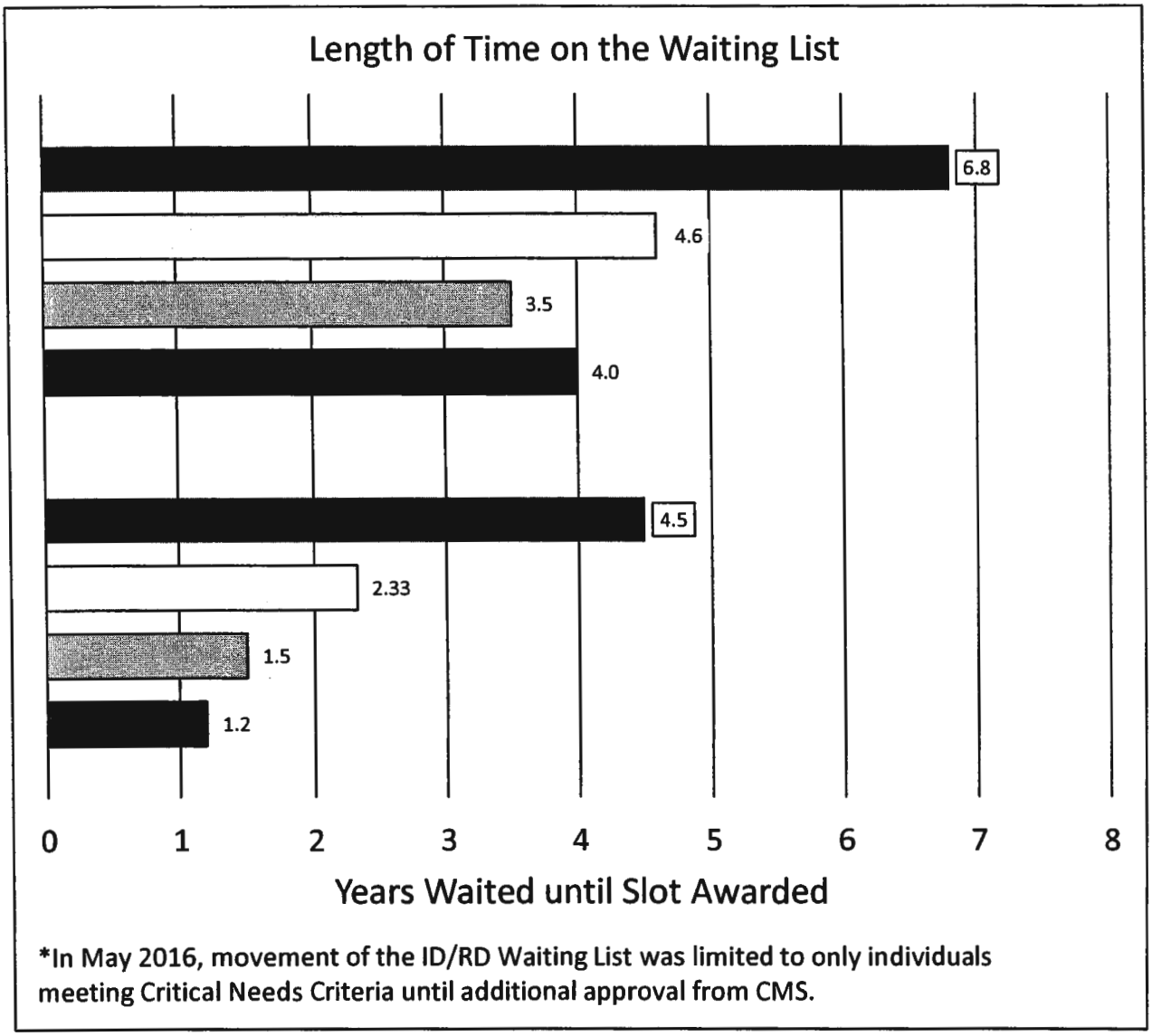
- *We appreciate the commenter's suggestion and SCDHHS will engage in discussions with SCDHEC (the regulatory body for CRCF's) on how the two agencies can work together on this issue.*

5. Other comments

Comments/Questions

- What is CMS? (2 x)
  - *It is the Centers for Medicare and Medicaid Services. It is the federal partner that pays the majority share for Medicaid services. They issue regulations that provides states with the parameters within which they must operate their Medicaid program.*
- Does this rule only apply to Medicaid? (meaning the HCBS rule)
  - *Yes.*
- How does this plan impact the PDD (Pervasive Developmental Disorder) waiver program?
  - *The PDD waiver program is transitioning to our state plan program, so although the PDD waiver program is still active, it is not impacted by this rule. Most of the settings are already in the community so it's not something we need to assess. Additionally, the state plan option for these types of services are already live so you can access those now.*
- From the family and provider perspective, when will we see hard guidance on what should be minimally provided and what minimally should be paid? In other words, what level of services should a family expect? And what are providers expected to do?
  - *Provision of services should take a person-centered approach. A provider should ask the person receiving services, what do you expect to get out of this service? That answer should then drive how the service is provided. There is no one cookie-cutter answer if you take a person-centered approach to service delivery.*
- Although implementation of Person-centered planning is not a component of the transition plan, as the state Medicaid Agency DHHS should consider how HCBS waiver services fit into the need for individuals to have true choice in their plans.
  - *We appreciate the commenter's suggestion and will take it under advisement as SCDHHS works to examine all aspects of coming into compliance with the HCBS rule.*

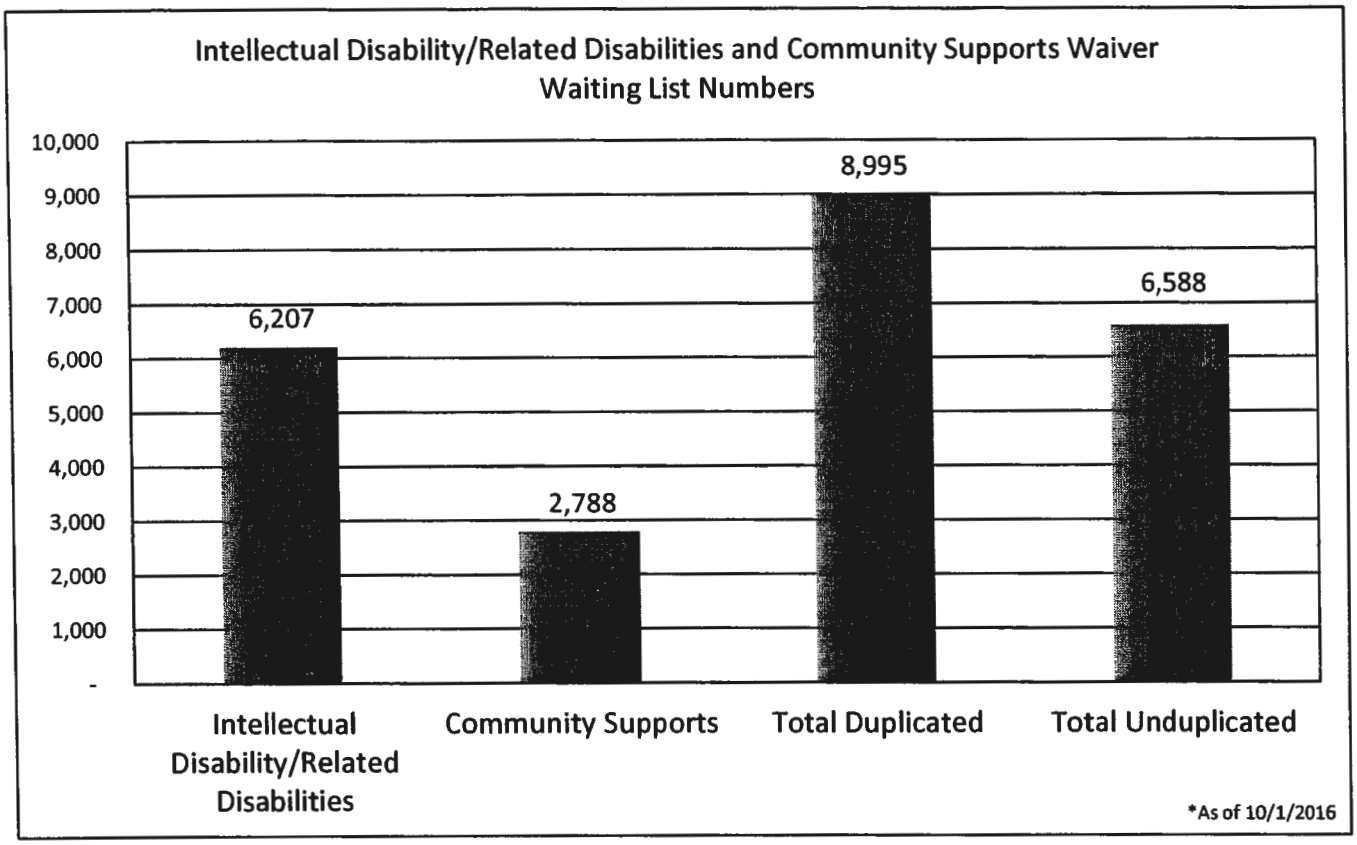
SC Department of Disabilities and Special Needs

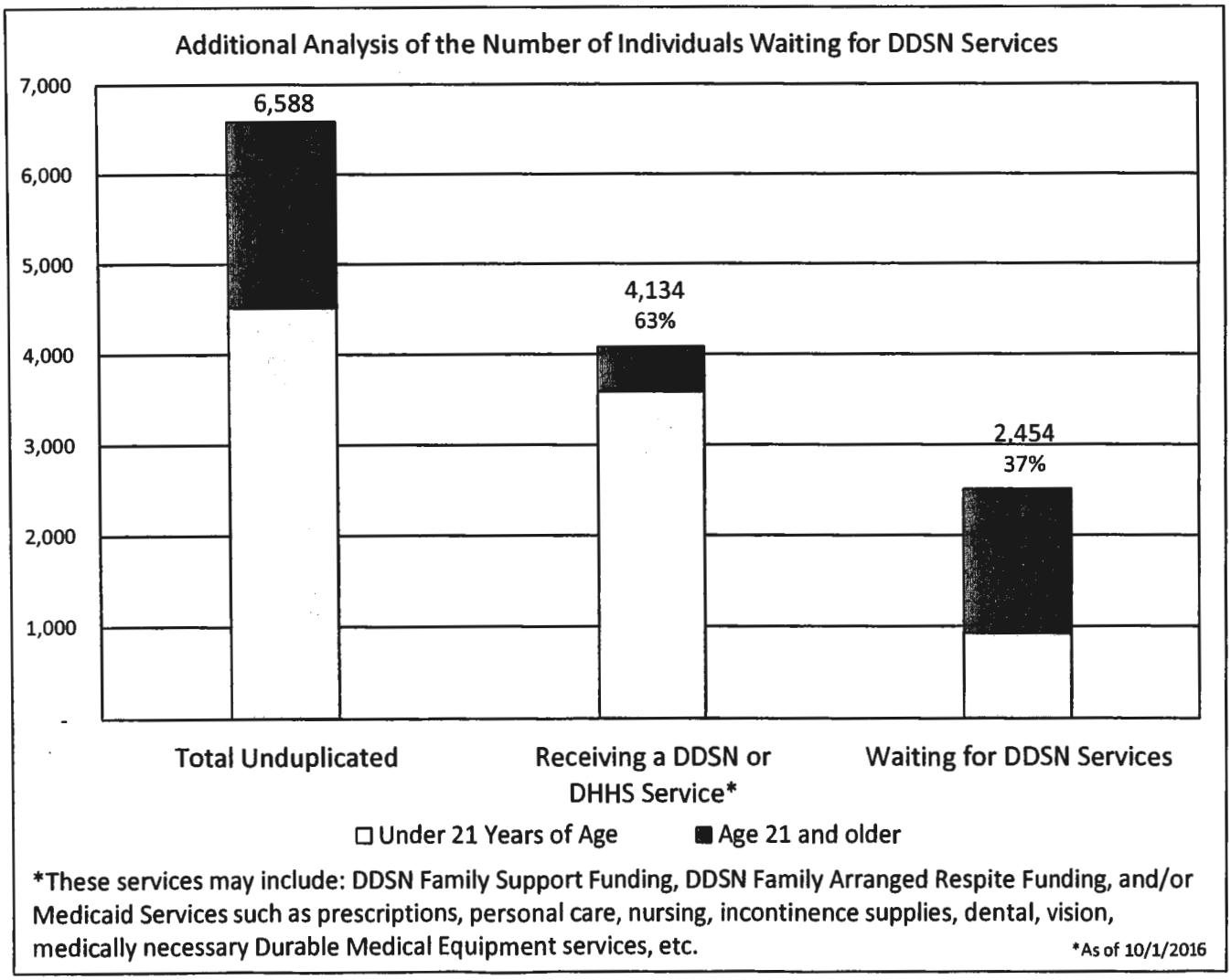


ID/RD – Intellectual Disability/Related Disabilities Waiver
CS – Community Supports Waiver

*As of October 1, 2016

SC Department of Disabilities and Special Needs





SC Department of Disabilities and Special Needs
Waiting List Reduction Efforts
As of November 1, 2016 (run on November 1, 2016)

Waiting List	Number of Individuals Removed from Waiting Lists	Consumer/Family Determination		Number of Individuals Services are Pending
		Number of Individuals Enrolled in a Waiver	Number of Individuals Opted for Other Services/ Determined Ineligible	
Intellectual Disability/Related Disabilities (As of July 1, 2014)	1,438 (FY15) 2,109 (FY16) 36 (FY17) 3,583	713 (FY15) 1,043 (FY16) 899 (FY17) 2,655	520 (FY15) 878 (FY16) 2 (FY17) 1,400	66 (FY15) 249 (FY16) 22 (FY17) 337
Community Supports (As of July 1, 2014)	2,429 (FY15) 1,837 (FY16) 2,252 (FY17) 6,518	699 (FY15) 639 (FY16) 323 (FY17) 1,661	1,507 (FY15) 952 (FY16) 721 (FY17) 3,180	29 (FY15) 319 (FY16) 1,330 (FY17) 1,678
Head and Spinal Cord Injury (As of Oct 1, 2013)	833	372	256	205
		4,688	4,836	
Total	10,934	9,524		2,220

Waiting List *	Number of Individuals Added Between July 1, 2014 and November 1, 2016	Number of Individuals Waiting as of November 1, 2016
Intellectual Disability/Related Disabilities	4,683 (760 since 7/1/16)	6,362
Community Supports	4,881 (1,001 since 7/1/16)	2,494
Head and Spinal Cord Injury	0	0
Total	9,564	8,856**

* There is currently no Head and Spinal Cord Injury (HASCI) Waiver waiting list.

** There are 6,663 unduplicated people on a waiver waiting list. Approximately 24.8 percent of the 8,856 names on the combined waiting lists are duplicates.

SC Department of Disabilities and Special Needs

Waiting List Reduction Efforts

		2015	2016										
Row #	Total Numbers At Beginning of the Month	December	January	February	March	April	May	June	July	August	September	October	November
1	Intellectual Disability/Related Disabilities Waiver Waiting List Total	4,779	4,925	4,935	5,001	5,191	5,312	5,545	5,702	5,815	6,059	6,207	6,362
2	Community Supports Waiver Waiting List Total	3,478	3,530	3,501	3,551	3,566	3,734	3,563	3,028	3,010	2,862	2,788	2,494
3	Head and Spinal Cord Injury Waiting List Total	0	0	0	0	0	0	0	0	0	0	0	0
4	Critical Needs Waiting List Total	124	122	122	133	125	129	137	149	160	147	131	136
5	Total Number Added to the ID/RD, HASCI, and CS Waiting Lists	214	406	285	389	544	602	456	452	346	615	553	450
6	Total Number Removed from the ID/RD, HASCI, and CS Waiting Lists	284	208	304	272	340	313	394	830	251	596	381	590
7	Number of Individuals Enrolled in a Waiver by Month	125	176	180	137	196	136	124	139	118	125	126	85
8	Number of Individuals Opted for Other Services/Determined Ineligible by Month	130	101	139	136	156	134	55	80	479	136	67	46
9	Total Number of Individuals Removed from Waiting Lists (Running Total)	6,837	7,050	7,327	7,631	7,935	8,229	8,676	9,412	9,650	10,154	10,667	10,934
10	Total Number of Individuals Pending Waiver Services (Running Total)	1,815	1,833	1,743	1,690	1,606	1,598	1,736	2,084	1,999	2,059	2,251	2,220
11	Total Unduplicated Individuals on the Waiver Waiting Lists (*Approximate)	5,449*	5,580	5,575*	5,635	5,776	5,879	6,148	6,129	6,246	6,425	6,588	6,663

** There are 6,663 unduplicated people on a waiver waiting list. Approximately 24.8 percent of the 8,856 names on the combined waiting lists are duplicates.

PDD Waiting List Information

12	PDD Program Waiting List Total	1,619	1,633	1,638	1,649	1,659	1,679	1,653	1,639	1,630	1,607	1,596	1,583
13	Total Number Added to the PDD Waiting List	56	60	51	48	63	69	34	62	44	50	44	38
14	Total Number Removed from the PDD Waiting List	58	43	46	37	53	49	60	76	53	73	55	51
15	Number of Individuals Enrolled in the PDD State Funded Program by Month	291	276	264	259	263	256	253	241	227	214	206	190
16	Number of Individuals Pending Enrollment in the PDD Waiver by Month	81	84	82	75	81	97	110	137	143	164	169	181
17	Number of Individuals Enrolled in the PDD Waiver by Month	686	684	691	695	690	671	656	631	625	605	591	573

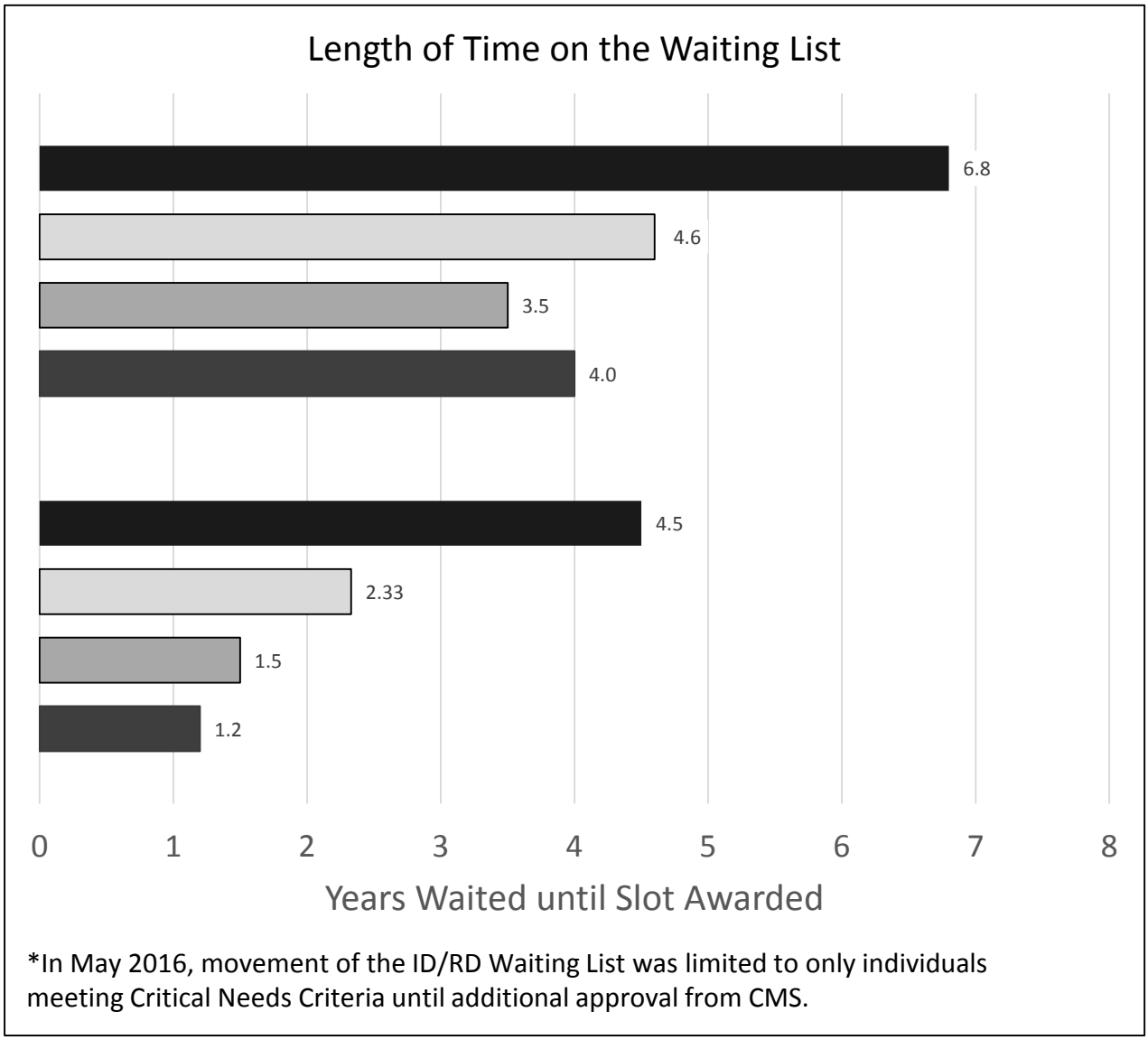
Updated 10/3/2016

South Carolina Department Of Disabilities & Special Needs
As Of October 31, 2016

Service List	09/30/16	Added	Removed	10/31/16
Critical Needs	131	32	27	136
Pervasive Developmental Disorder Program	1596	38	51	1583
Intellectual Disability and Related Disabilities Waiver	6208	166	12	6362
Community Supports Waiver	2788	266	560	2494
Head and Spinal Cord Injury Waiver	0	18	18	0

Report Date: 11/4/16

SC Department of Disabilities and Special Needs

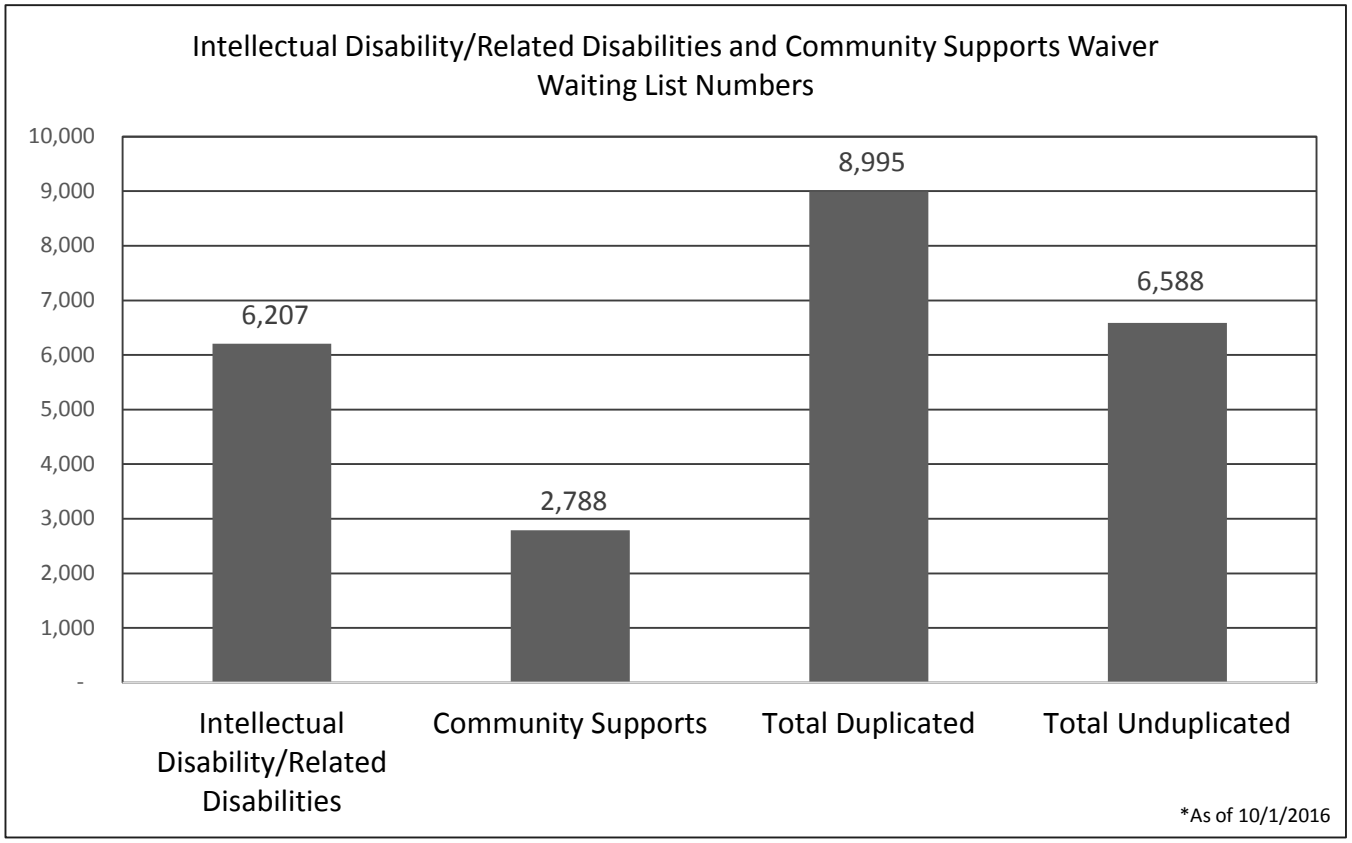


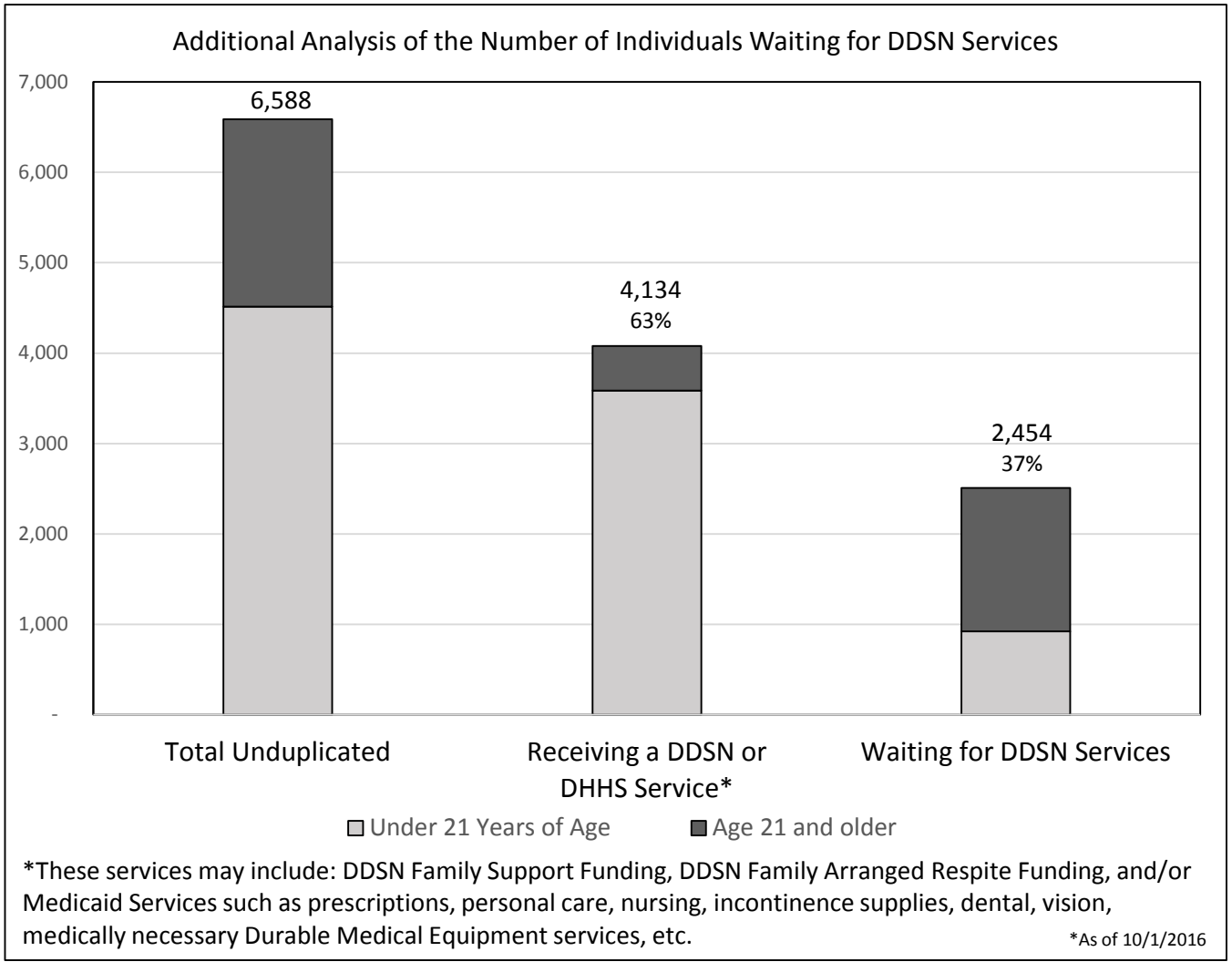
*In May 2016, movement of the ID/RD Waiting List was limited to only individuals meeting Critical Needs Criteria until additional approval from CMS.

ID/RD – Intellectual Disability/Related Disabilities Waiver
CS – Community Supports Waiver

*As of October 1, 2016

SC Department of Disabilities and Special Needs





SCDDSN Incident Management Report for FY16/17 (Community Residential, Day Service, and Regional Centers)												
Allegations of Abuse/Neglect/Exploitation												
Community Residential	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	July	Aug	Sept
# of ANE Allegations	44	34	40	32	41	24	56	39	50	30	53	48
# ANE Allegations Substantiated	0	0	3	0	1	0	0	0	0	0	0	1
# of Staff Terminated for policy and/or procedural violations or employee misconduct	6	3	5	6	8	6	3	5	3	3	9	8
Day Services	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	July	Aug	Sept
# of ANE Allegations	4	8	2	3	7	3	5	2	8	10	7	6
# ANE Allegations Substantiated	0	0	0	0	0	0	1	0	0	0	0	0
# of Staff Terminated for policy and/or procedural violations or employee misconduct	0	0	0	3	2	1	1	1	2	1	3	5
Regional Centers	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	July	Aug	Sept
# of ANE Allegations	5	19	7	4	7	13	8	6	21	13	8	17
# ANE Allegations Substantiated	0	2	0	0	0	0	0	0	0	0	0	0
# of Staff Terminated for policy and/or procedural violations or employee misconduct	0	8	3	1	3	0	0	2	3	1	0	8

Critical Incident Reporting

	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	July	Aug	Sept
# of Critical Incidents Reported- Community Residential	104	91	98	118	112	110	117	125	98	136	105	123
# of Critical Incidents Reported- Day Service Settings	11	16	25	13	21	26	22	19	18	31	22	13
# of Critical Incidents Reported- Regional Centers	27	16	34	20	32	17	21	30	23	35	26	31

Death Reporting

	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	July	Aug	Sept
# of Deaths Reported- Community Residential	8	2	3	10	5	6	5	5	5	5	7	10
# of Deaths Reported- Regional Centers	2	3	4	4	1	3	1	0	3	0	3	1

SCDDSN Incident Management Report 5 year trend data (Community Residential, Day Service, and Regional Centers)					
Allegations of Abuse/Neglect/Exploitation					
Community Residential	**2013**	**2014**	**2015**	**2016**	**2017 (Q1)**
# of ANE Allegations	492	383	437	457	131
Rate per 100	11.4	8.8	9.9	9.9	2.9
# ANE Allegations Substantiated	1	11	7	4	1
# of Staff Terminated for policy and/or procedural violations or employee misconduct	92 (Day & Res.)	65	74	65	20
Day Services	**2013**	**2014**	**2015**	**2016**	**2017 (Q1)**
# of ANE Allegations	61	73	65	58	21
Rate per 100	0.82	0.97	0.84	0.72	0.27
# ANE Allegations Substantiated	2	4	4	1	0
# of Staff Terminated for policy and/or procedural violations or employee misconduct	92 (Day & Res.)	14	9	17	9
Regional Centers	**2013**	**2014**	**2015**	**2016**	**2017 (Q1)**
# of ANE Allegations	111	167	102	110	34
Rate per 100	14	22	13.5	15.4	5
# ANE Allegations Substantiated	1	0	0	2	0
# of Staff Terminated for policy and/or procedural violations or employee misconduct	21	17	16	24	1
Critical Incident Reporting	**2013**	**2014**	**2015**	**2016**	**2017 (Q1)**

# of Critical Incidents Reported- Community Settings (including Residential, Day & Other)	1338	1277	1385	1663	471
Rate per 100	17	16	17	19	5.6
# of Critical Incidents Reported- Regional Centers	248	224	241	287	88
Rate per 100	31	30	32	40	13
Death Reporting	**2013**	**2014**	**2015**	**2016**	**2017 (Q1)**
# of Deaths Reported- Community Settings	68	59	65	63	22
Rate per 100	2	2	2	2	1
# of Deaths Reported- Regional Centers	20	31	31	26	4
Rate per 100	3	4	4	4	1

*** Critical Incidents reflected in this chart include events that involve all aspects of DDSN Service, including those outside of Residential and Day Servies. Not all incidents reported include consumers .*

SCDDSN INCIDENT MANAGEMENT REPORTING

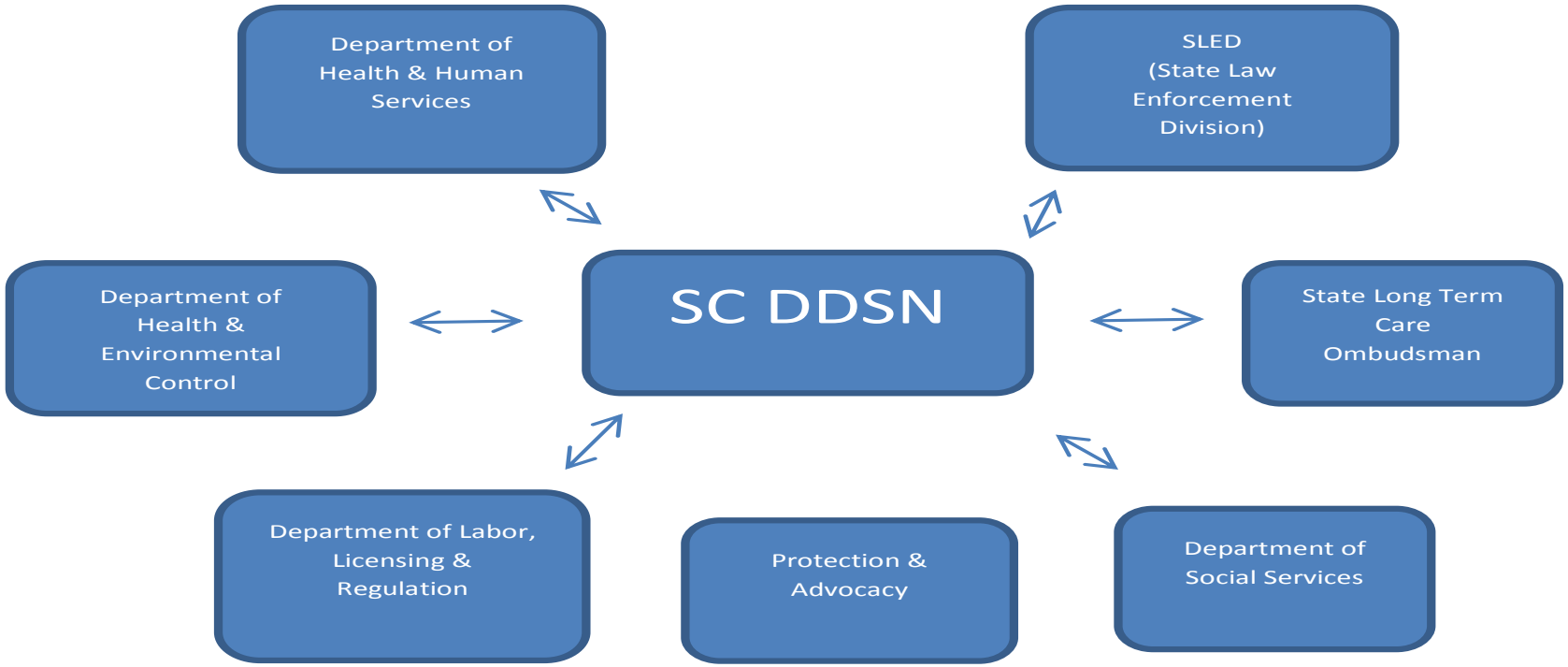
- Critical Incidents
- Allegations of Abuse, Neglect, and Exploitation
- Death Reporting

SCDDSN INCIDENT MANAGEMENT REPORTING

DDSN follows the procedures for reporting allegations of Abuse, Neglect, and Exploitation according to the procedures outlined in the SC Code of Law for Adult/ Child Protective services and the Omnibus Adult Protection Act.

DDSN has a comprehensive system for collecting data related to abuse, neglect exploitation or other critical incidents. This review covers reporting within the appropriate time frames, completion of internal reviews, and a review of the provider's management action taken, staff training, risk management and quality assurance activities to provide safeguards for the consumers.

SCDDSN INCIDENT MANAGEMENT REPORTING AND INTERACTION WITH OTHER STATE AGENCIES



SCDDSN INCIDENT MANAGEMENT REPORTING

DDSN tracks, trends, and analyzes all Incident Management data through statewide and provider-level profile reports. These reports provide raw data with regard to the number of reports made and cases substantiated and also gives a rate per 100 ratio. As an additional measure, the reports breakdown the types of abuse cases within the provider agency and the number of each type of report. A listing of the top four types of reports for the provider and the state as a whole is given for additional comparison. The rate per 100 information is especially useful in providing a comparative analysis among agencies.

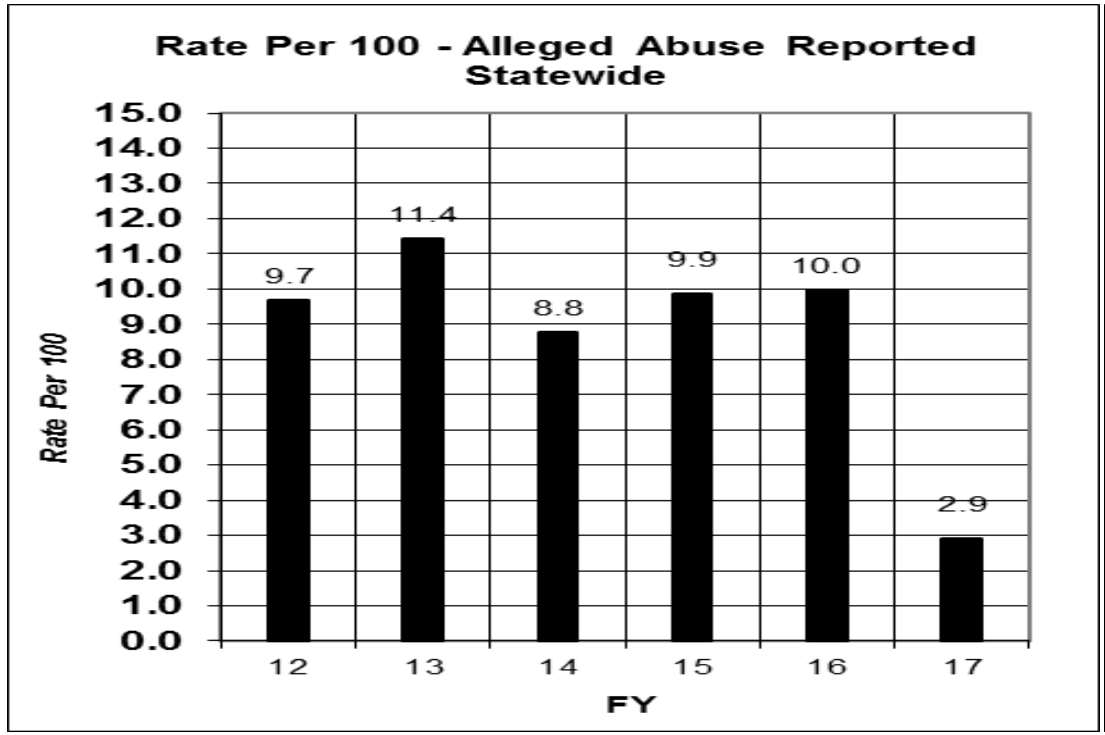
SCDDSN INCIDENT MANAGEMENT REPORTING

Community Residential Services -Allegations of Abuse, Neglect, Exploitation

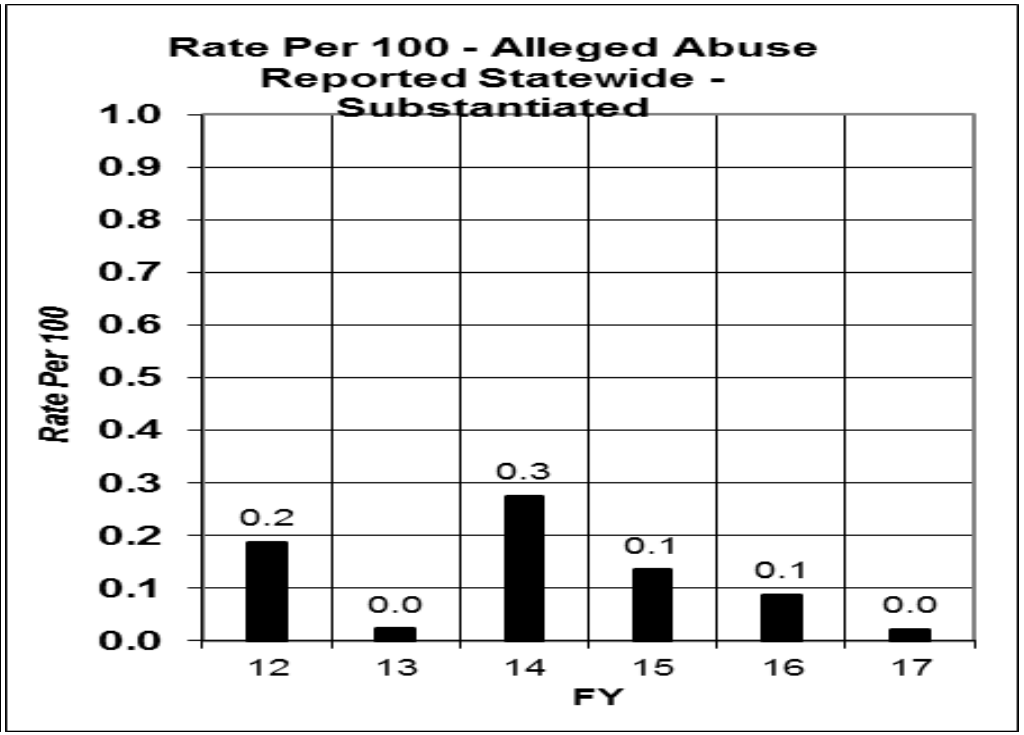
	FY 13	FY14	FY15	FY16	FY17 (Q1)
# Reports	492	383	437	457	131
Rate Per 100	11.5	8.8	9.9	9.9	2.9
Allegations Substantiated	1	11	7	4	1
Rate Per 100	0.02	0.25	0.16	0.09	0.02

SCDDSN INCIDENT MANAGEMENT REPORTING

Allegations reported for Community Residential Service Providers



Substantiated Allegations for Community Residential Service Providers



SCDDSN INCIDENT MANAGEMENT REPORTING

Frequency of the types of alleged abuse reported-

Statewide Residential

	Physical	Neglect	Psychological	Exploitation
FY 13	200	162	109	68
	Physical	Neglect	Psychological	Exploitation
FY 14	171	128	77	43
	Physical	Neglect	Exploitation	Psychological
FY 15	209	116	63	56
	Physical	Neglect	Psychological	Exploitation
FY 16	207	138	89	38
	Physical	Neglect	Psychological	Exploitation
FY17 (Q1)	48	44	27	12

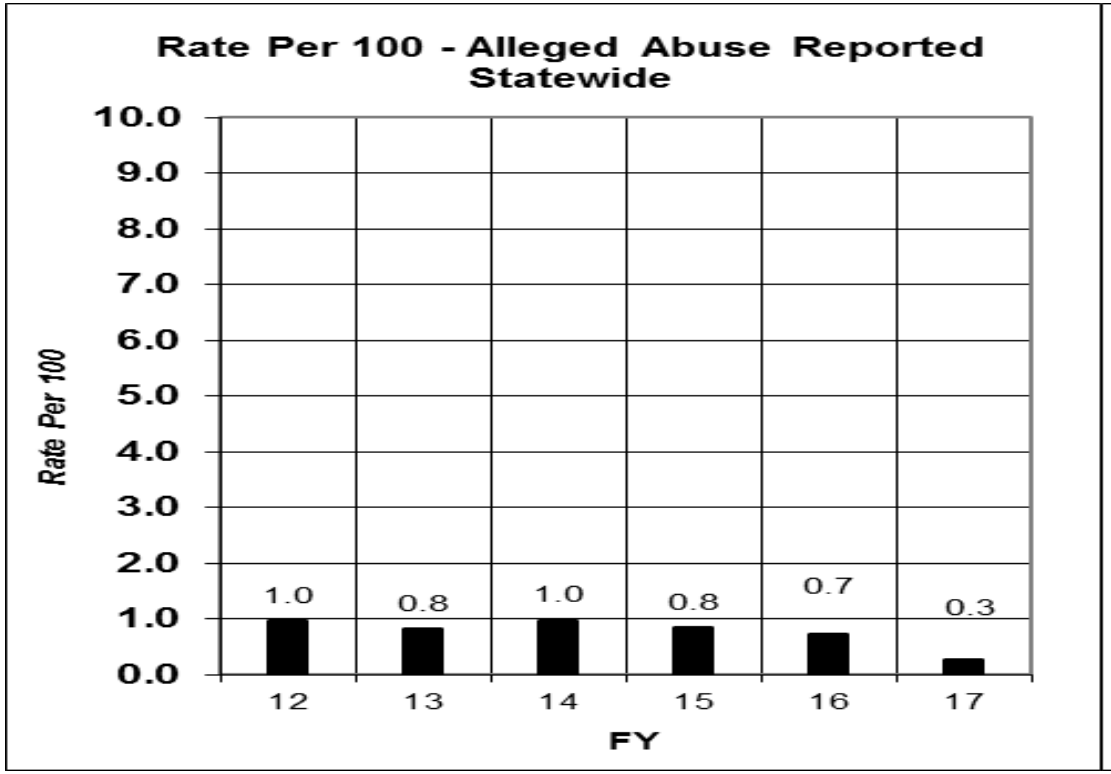
SCDDSN INCIDENT MANAGEMENT REPORTING

Day Services- Allegations of Abuse, Neglect and Exploitation

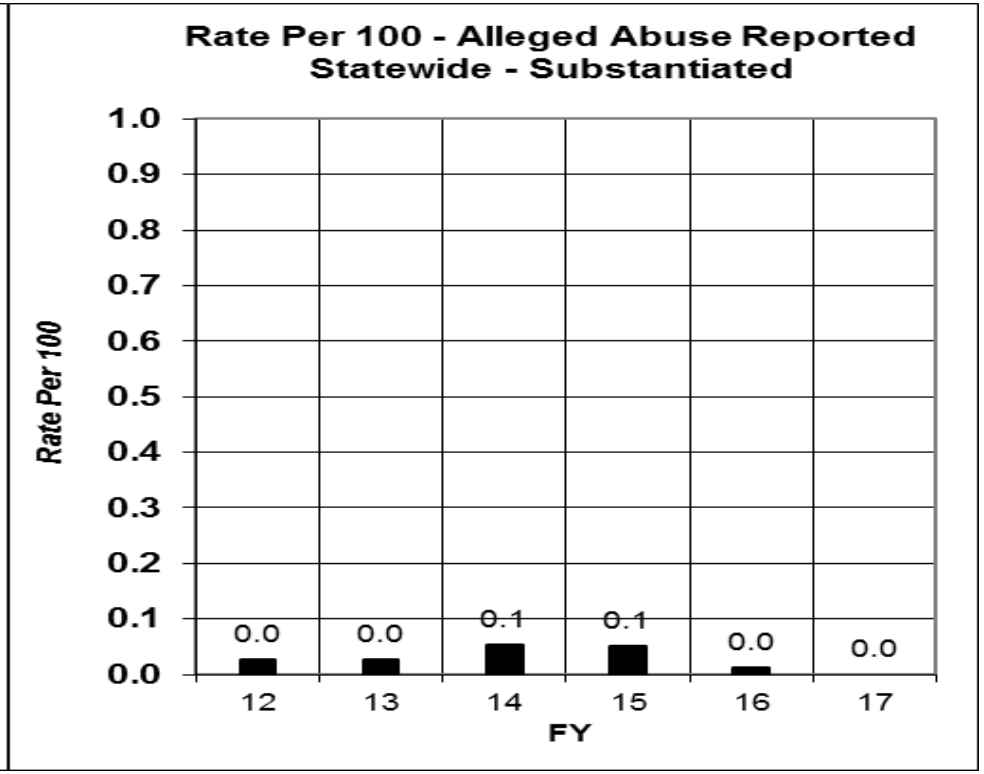
	FY 13	FY14	FY15	FY16	FY17 (Q1)
# Reported	61	73	65	58	21
Rate Per 100	0.82	0.97	0.84	0.72	0.27
# Allegations Substantiated	2	4	4	1	0
Rate Per 100	0.03	0.05	0.05	0.01	0.0

SCDDSN INCIDENT MANAGEMENT REPORTING

Allegations reported for Community Day Services



Substantiated Allegations for Community Day Service Providers



SCDDSN INCIDENT MANAGEMENT REPORTING

Frequency of the types of alleged abuse reported-

Statewide Day

	Physical	Neglect	Exploitation	Psychological
FY 13	25	19	10	10
	Physical	Psychological	Neglect	Sexual
FY 14	37	16	13	5
	Psychological	Physical	Neglect	Sexual
FY 15	25	21	15	5
	Physical	Neglect	Psychological	Exploitation
FY 16	27	20	12	1
	Physical	Neglect	Psychological	Exploitation
FY17 (Q1)	13	4	4	0

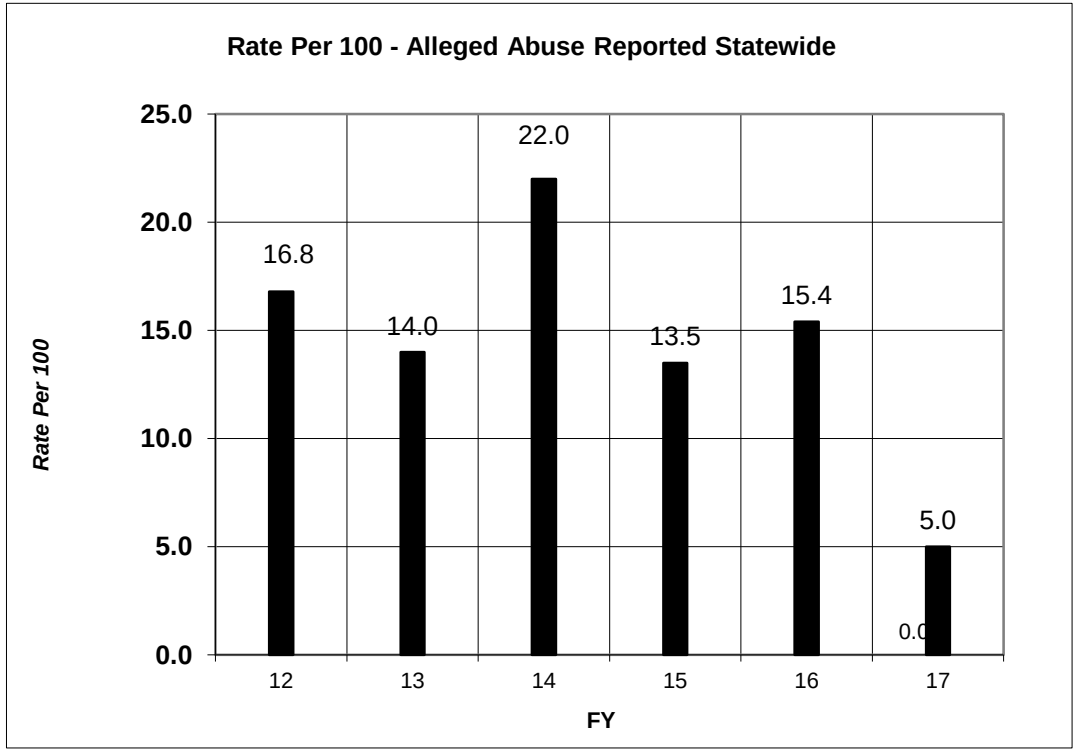
SCDDSN INCIDENT MANAGEMENT REPORTING

Regional Centers- Allegations of Abuse, Neglect, Exploitation

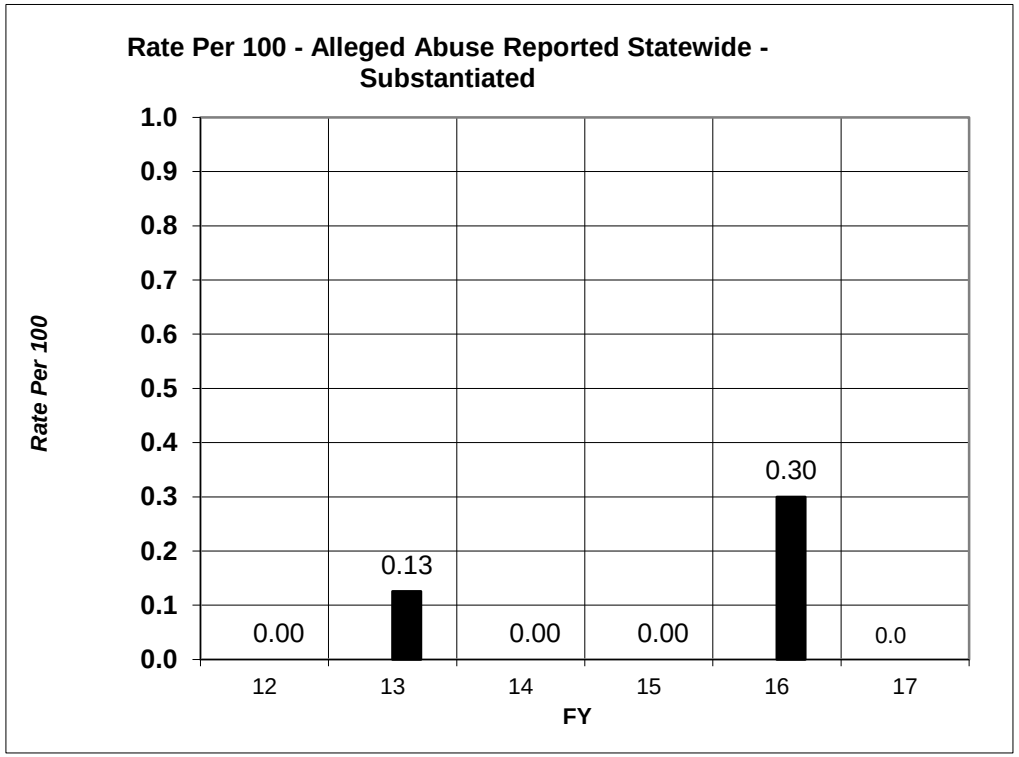
	FY 13	FY14	FY15	FY16	FY17 (Q1)
# Allegations Reported	111	167	102	110	34
Rate Per 100	14	22	13.5	15.4	5.0
# Allegations Substantiated	1	0	0	2	0
Rate Per 100 (Substantiated)	0.1	0.0	0.0	.3	0.0

SCDDSN INCIDENT MANAGEMENT REPORTING

Allegations reported for Regional Centers



Substantiated Allegations for Regional Centers



SCDDSN INCIDENT MANAGEMENT REPORTING

Frequency of the types of alleged abuse reported-

Regional Centers

	Physical	Neglect	Psychological	Sexual
FY 13	52	11	5	1
	Physical	Neglect	Psychological	Exploitation
FY 14	94	8	2	9
	Physical	Psychological	Neglect	Exploitation
FY 15	78	14	5	4
	Physical	Neglect	Psychological	Exploitation
FY 16	83	19	8	3
	Physical	Psychological	Neglect	Exploitation
FY17 (Q1)	29	3	2	0

SCDDSN INCIDENT MANAGEMENT REPORTING

ANE Reports- Disciplinary Action Taken

Per 534-02-DD, for all allegations of abuse, neglect or exploitation, the alleged perpetrator must be immediately placed on Administrative Leave Without Pay. Based on the outcome of the internal review for improper conduct and any policy or procedural violations, the provider agency may take appropriate disciplinary action consistent with their human resource policies. Allegations substantiated by SLED, Local Law Enforcement or DSS must result in termination of the employee.

Disciplinary actions for DDSN and its provider agency personnel have been summarized based on actions documented by the provider in the Incident Management System.

Community Residential & Day	FY14	FY15	FY16	FY17 (Q1)
Termination	79	83	82	29
Resignation	1	7	7	2
Written Warning	15	39	10	4
Verbal Counseling	6	7	15	2
Suspension	5	17	10	3
Other disciplinary action	11	47	26	14

Regional Centers	FY14	FY15	FY16	FY17 (Q1)
Termination	17	16	24	1
Written Warning	4	13	4	0
Suspension	1	4	1	0
Other disciplinary action	3	19	12	4

SCDDSN INCIDENT MANAGEMENT REPORTING

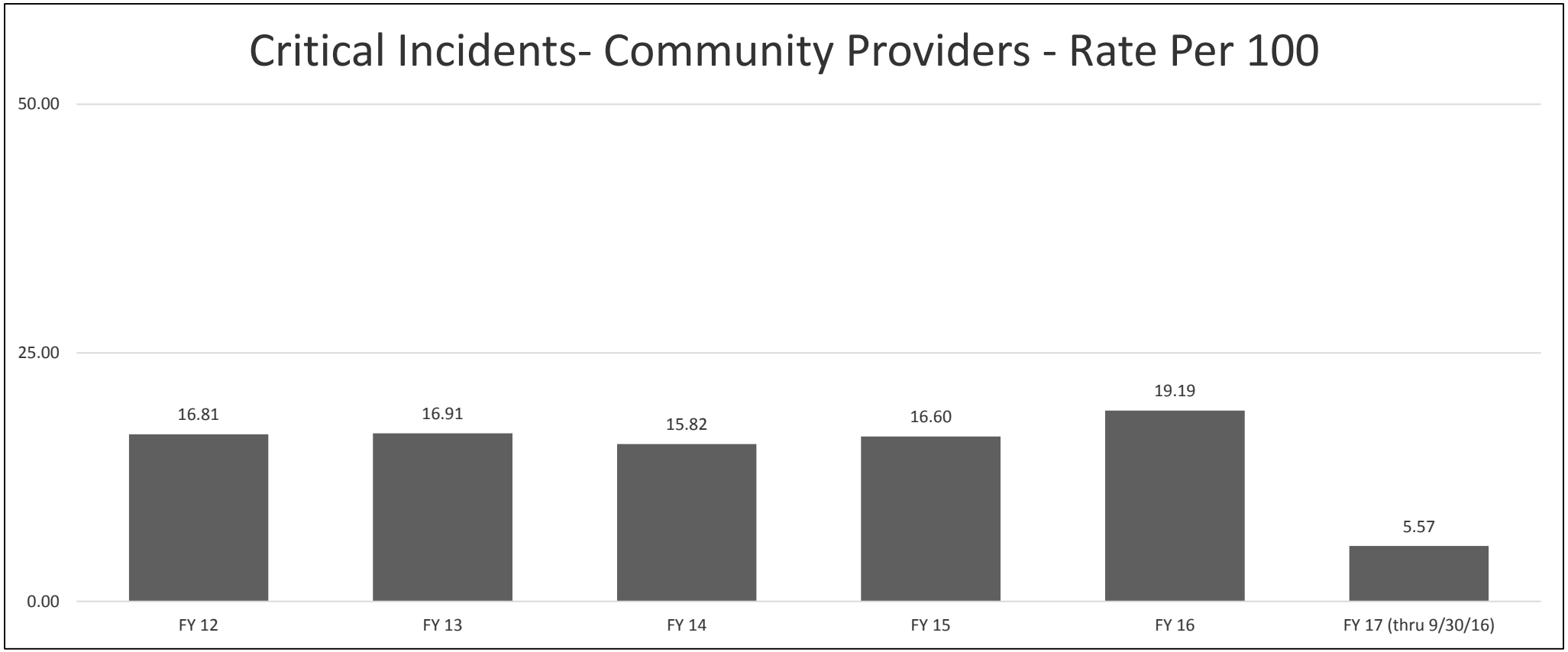
Critical Incidents reported by Community Providers (DSN Boards and Qualified Providers)

	FY 13	FY14	FY15	FY16	FY17
# Incidents Reported	1,338	1,277	1,385	1663	471
Rate Per 100	17	16	17	19	5.6

**Critical Incident numbers are not unduplicated numbers.

Critical Incident categories are selected by the reporter and more than one category may be selected for an incident. For example, a van accident would be reported under Motor Vehicle Accidents, but it may also involve injuries and possibly Major Medical. Aggression between 2 consumers may result in Law Enforcement involvement and a report of injuries.

SCDDSN INCIDENT MANAGEMENT REPORTING



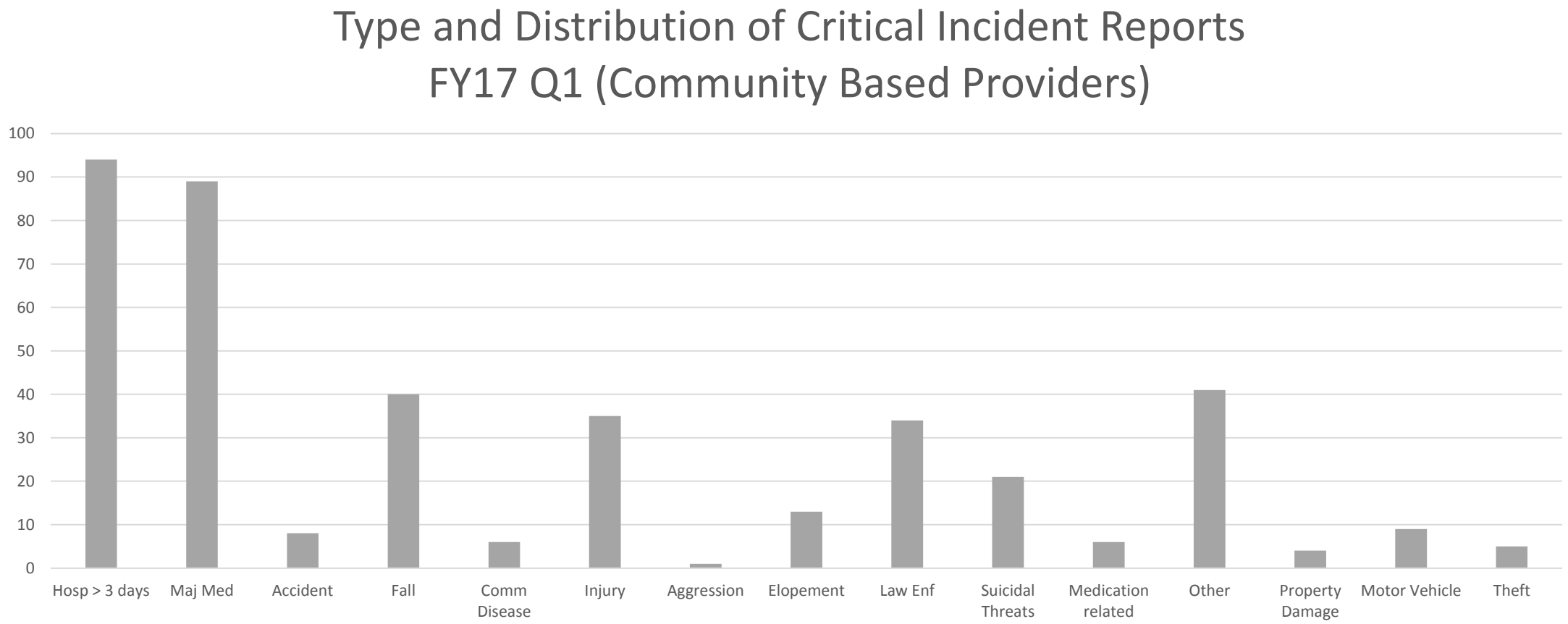
SCDDSN INCIDENT MANAGEMENT REPORTING

Types of Critical Incident Reports most frequently submitted-

Community-Based Providers

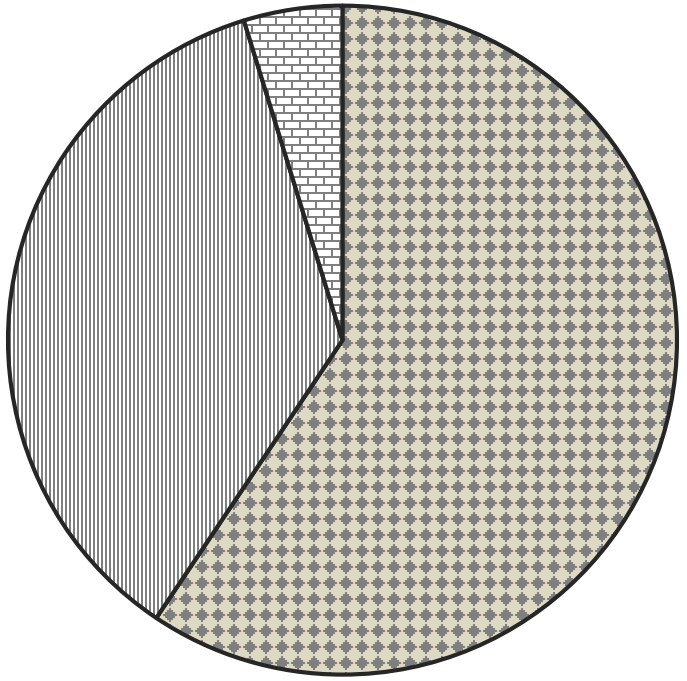
	Maj. Med	Hosp>3	Aggression	Fall
FY 13	391	208	124	115
	Maj. Med	Hosp>3	Injury	Aggression
FY 14	277	239	134	116
	Hosp>3	Maj. Med	Other	Aggression
FY 15	270	257	154	148
	Hosp>3	Maj. Med	Law Enf	Other
FY 16	345	318	202	191
	Hosp>3	Maj. Med	Other	Injury
FY17 (Q1)	94	89	45	35

SCDDSN INCIDENT MANAGEMENT REPORTING



SCDDSN INCIDENT MANAGEMENT REPORTING

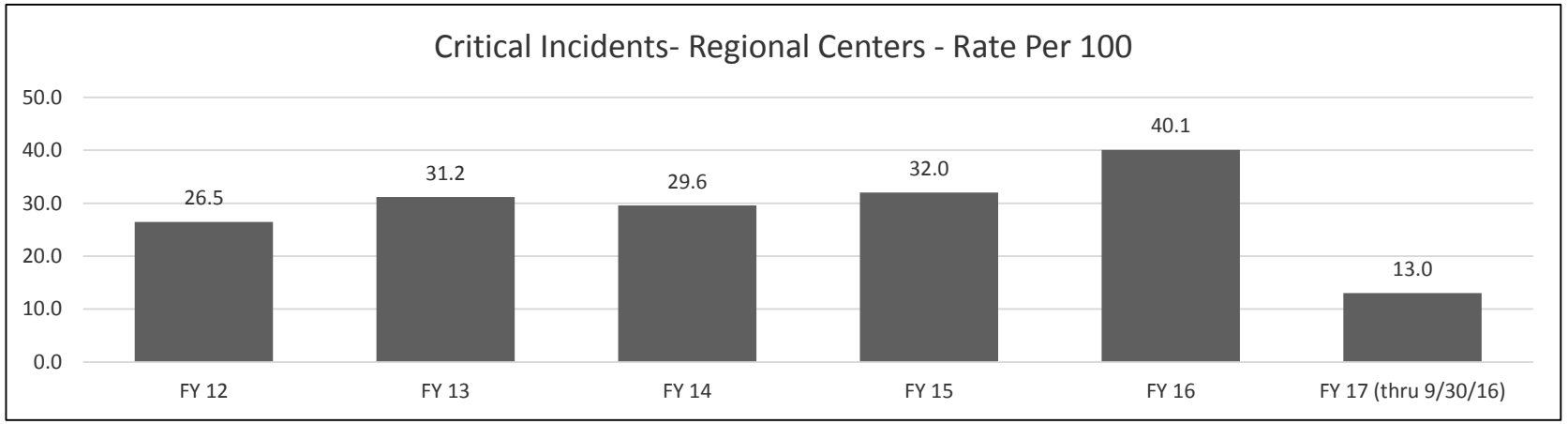
Critical Incidents including Medical and Operations-Related issues
FY17- Q1 (Community Based Providers)



SCDDSN INCIDENT MANAGEMENT REPORTING

CRITICAL INCIDENTS reported by Regional Centers

	FY 13	FY14	FY15	FY16	FY17 (Q1)
# Incidents Reported	248	224	241	287	88
Rate Per 100	31	30	32	40	13



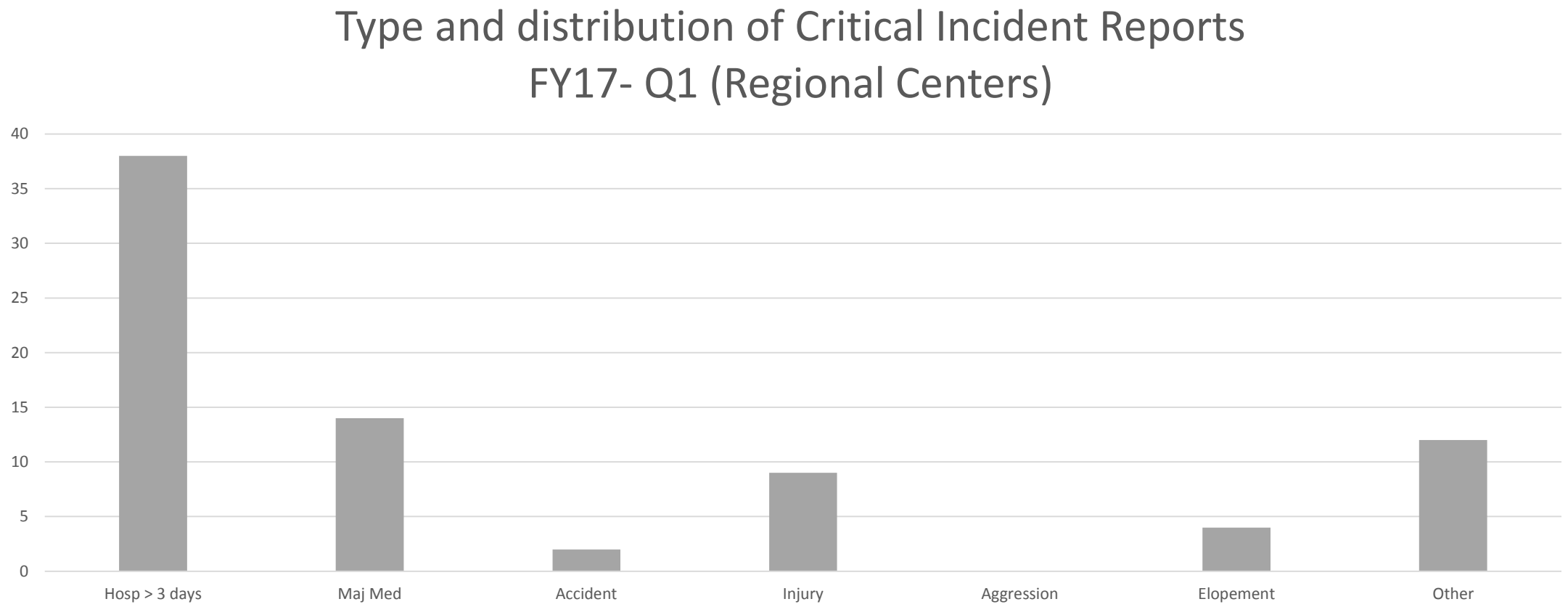
SCDDSN INCIDENT MANAGEMENT REPORTING

Types of Critical Incident Reports most frequently submitted-

Regional Centers

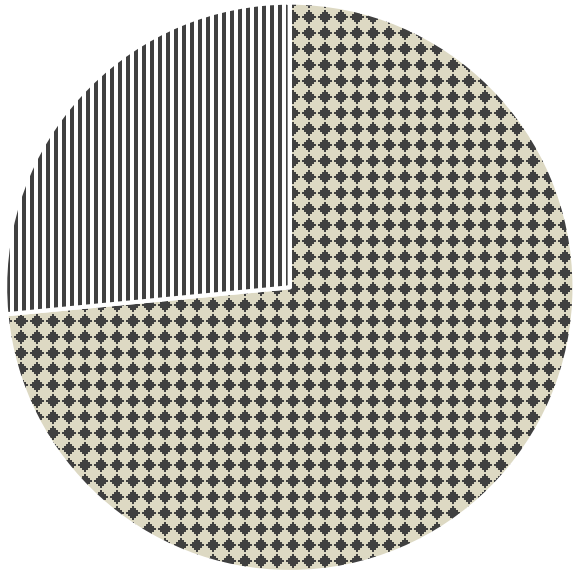
	Maj. Med	Hosp>3	Other	Injury
FY 13	123	104	17	13
	Hosp>3	Maj. Med	Injury	Other
FY 14	122	81	11	7
	Hosp>3	Maj. Med	Injury	Other
FY 15	127	59	18	8
	Hosp>3	Maj. Med	Injury	Other
FY 16	141	66	26	20
	Hosp>3	Maj. Med	Other	Injury
FY17 (Q1)	38	14	12	9

SCDDSN INCIDENT MANAGEMENT REPORTING



SCDDSN INCIDENT MANAGEMENT REPORTING

Critical Incidents including Medical and Operations Related Issues
FY17- Q1 (Regional Centers)

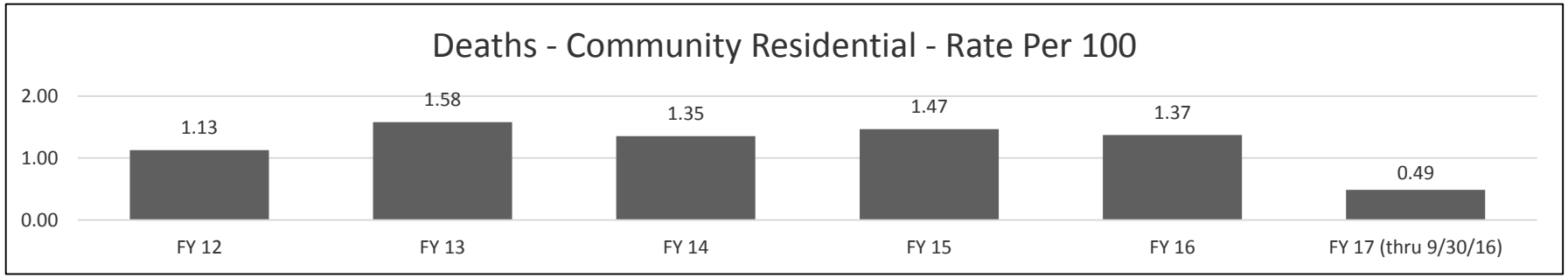


Medical Critical Incidents Operations

SCDDSN INCIDENT MANAGEMENT REPORTING

Deaths reported by Community Providers (DSN Boards and Qualified Providers)

	FY 13	FY14	FY15	FY16	FY17 (Q1)
# Deaths Reported	68	59	65	63	22
Rate Per 100	2	2	2	2	1

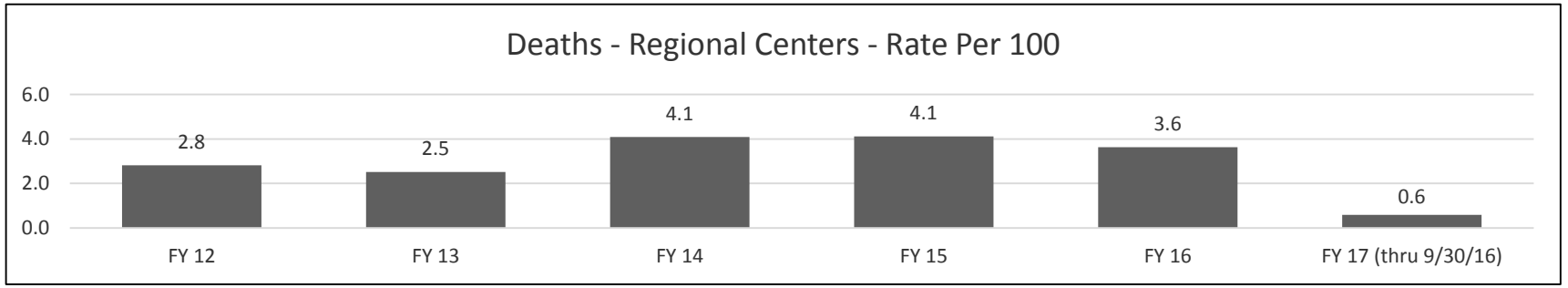


For both community residential settings and regional centers, DDSN has observed a slight increase in the number of deaths reported. DDSN providers support a population that is aging in place rather than moving to a nursing home. Many residents receive Hospice care in their DDSN sponsored setting, rather than moving to a Hospice setting. DDSN has also observed more deaths related to cardiac disease.

SCDDSN INCIDENT MANAGEMENT REPORTING

DEATHS reported by Regional Centers

	FY 13	FY14	FY15	FY16	FY17 (Q1)
# Deaths Reported	20	31	31	26	4
Rate Per 100	3	4	4	4	1



SCDDSN INCIDENT MANAGEMENT REPORTING

DDSN has staff dedicated to the review of statewide incident management data. All reports are reviewed for completeness and consistency. Staff ensure reporting procedures are consistent with DDSN policy.

Reports are reviewed to ensure appropriate disciplinary actions, recommendations for training and additional quality management actions to prevent recurrence.

Reports are also tracked for various details, including the number of reports, by type, for each provider and the average age of consumers involved in incidents.

Examples of provider training recommendations and/ QM efforts include the following:

- Increased staffing to support consumers in day or residential locations or on community outings.
- Development of new/ revised policies
- Additional/ refresher MANDT or crisis intervention training for staff
- Sensitivity training
- Appropriate use of restraints
- Rights/ due process
- Sign language
- Revision of supervision plans/ behavior support
- Evaluation of assistive technology

DDSN Implementation Plan for 2014 LAC Report Recommendations

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
2	The General Assembly should amend S.C. Code §43-35-15(A) to require that all allegations of vulnerable adult abuse, neglect, and exploitation are reported to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division's toll-free number for referral to the appropriate investigative agency, regardless of criminality and setting of an allegation. P.11	DDSN will comply with any statutory amendments enacted by the S.C. General Assembly.	General Assembly	No Action Taken	DDSN is a member of the Adult Protection Coordinating Council. During the APCC meeting in August 2014, the LAC staff presented their findings to the Council. The Council delegated further review to the appropriate committee. On October 1, 2014, the APCC Legislative Committee met to discuss the LAC's recommended changes to OAPA §43-35-10 etsq. during the DDSN Audit. The Committee discussed a number of financial and infrastructure concerns associated with this recommendation. It was agreed the Committee would take no position on this recommendation. The issue was further discussed by the APCC at its November 2014 meeting. No further action has been taken. DDSN held meeting with consumers, families, advocates and providers in December 2015 for discussion and there was a consensus this recommendation would make reporting easier. DDSN agrees it would be much easier for all stakeholders--consumers, families, staff, advocates, general public--if there was only one number to call to report any allegations of ANE. This position was discussed and approved by the Commission on December 17, 2015. **October 26, 2016 DDSN requested through the fall presentation to the Senate HealthCare Sub-Committee a change in legislation to implement this recommendation. DDSN staff will work with Senate Health Care Sub-Committee staff to formalize language.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
3	The General Assembly should amend S.C. Code §43-35-10(4) to include day programs as a facility type. P.11	DDSN will comply with any statutory amendments enacted by the S.C. General Assembly.	General Assembly	No Action Taken	DDSN is a member of the Adult Protection Coordinating Council. During the APCC meeting in August 2014 the LAC staff presented their findings to the Council. The Council delegated further review to the appropriate committee. On October 1, 2014, the APCC Legislative Committee met to discuss the LAC's recommended changes to OAPA during the DDSN Audit. The Committee acknowledged that not all participants in day programs are from facilities but are from the community. Following passage of the OAPA, DSS and the LTCO program collaborated regarding their respective jurisdictions including for day programs and there had been no issues regarding which program had investigative responsibility. The Legislative Committee agreed not to make recommendations for any changes to OAPA at this time. The Legislative Committee's recommendations were approved by the APCC at its November 2014 meeting and no further action has been taken. DDSN held meeting with consumers, families, advocates and providers in December 2015 for discussion and there was a consensus this recommendation would make reporting easier. DDSN is agreeable to having one toll-free number to report all allegations of ANE which would ensure referral to the appropriate investigative authority. This position was discussed and approved by the Commission on December 17, 2015. **October 26, 2016 DDSN requested through the fall presentation to the Senate HealthCare Sub-Committee a change in legislation to implement this recommendation. DDSN staff will work with Senate Health Care Sub-Committee staff to formalize language.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
4	The General Assembly should amend §43-35-25(D) of the S.C. Code of Laws by deleting the mandated reporter requirements to ensure all allegations of vulnerable adult abuse, neglect, and exploitation are reported to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division. P.12	DDSN will comply with any statutory amendments enacted by the S.C. General Assembly.	General Assembly	No Action Taken	DDSN is a member of the Adult Protection Coordinating Council. During the APCC meeting in August 2014, the LAC staff presented their findings to the Council. The Council delegated further review to the appropriate committee. On October 1, 2014, the APCC Legislative Committee met to discuss the LAC's recommended changes to OAPA during the DDSN Audit. The Committee reviewed Sections 43-35-15 regarding jurisdictions and 43-35-25 regarding reporting and it was recommended there should be no change in the mandatory reporter requirements. The Committee indicated the language in the statute was stated correctly. The Committee's recommendations were approved by the APCC at its November 2014 meeting and no further action has been taken. DDSN held meeting with consumers, families, advocates and providers in December 2015 for discussion and there was a consensus this recommendation would make reporting easier. DDSN agrees it would be much easier for all stakeholders--consumers, families, staff, advocates and general public--if there was only one number to call to report any allegations of ANE. DDSN believes having one toll-free number to report all allegations of ANE would ensure referral to the appropriate investigative authority. This position was discussed and approved by the Commission on December 17, 2015. **October 26, 2016 DDSN requested through the fall presentation to the Senate HealthCare Sub-Committee a change in legislation to implement this recommendation. DDSN staff will work with Senate Health Care Sub-Committee staff to formalize language.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
7	The General Assembly should amend S.C. Code §43-35-60 to require vulnerable adult investigative agencies to share specific case dispositions with the relevant facility. P.14	DDSN will comply with any statutory amendments enacted by the S.C. General Assembly.	General Assembly	Discussion with Stakeholders	DDSN is a member of the Adult Protection Coordinating Council. During the APCC Legislative Committee Meeting on October 1, 2014, it was agreed to make a recommendation to require investigative agencies to share specific case disposition. The recommendation included a caveat that there should be a definition of relevant, as the reference in the LAC report was unclear. The language in the statute was reviewed and it was agreed the language should not be changed from "may" to "shall" share information but "relevant" did need to be defined. The Committee's recommendations were approved by the APCC at its November 2014 meeting and no further action has been taken. DDSN held meeting with consumers, families, advocates and providers in December 2015 for discussion and there was a consensus this recommendation would make follow up easier. The groups also agreed that a clarification of what is considered relevant would be helpful. DDSN is agreeable to this recommendation. The agency would benefit from the receipt of investigative agencies' results or findings to facilitate case closure within DDSN's Incident Management System. This position was discussed and approved by the Commission on December 17, 2015. **DDSN requested the State Office of the Inspector General to complete a review of a DDSN private provider and make recommendations on the statewide Abuse, Neglect, and Exploitation Incident Management System. In response to the recommendations, DDSN is organizing and leading a task force composed of representatives from multiple state agencies in order to discuss and implement the recommendations. The first meeting of the task force will be in November 2016.** **October 26, 2016 DDSN requested through the fall presentation to the Senate HealthCare Sub-Committee a change in legislation to implement this recommendation. DDSN staff will work with Senate Health Care Sub-Committee staff to formalize language.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
24	The S.C. Department of Disabilities and Special Needs should comply with state law and enforce directive 406-04-DD that requires all regional centers and boards/providers to conduct pre-hire, criminal history checks for prospective direct caregivers. P.36	DDSN will comply with state statute and measure compliance with directive 406- 04-DD that requires all regional centers and boards/providers to conduct pre-hire, criminal history checks for prospective direct caregivers.	DDSN	Implemented July 2014 Recoupment for the indicators effective July 2015	Directive 406-04-DD modified to ensure Regional Centers and community providers to conduct pre-hire criminal history checks. DDSN continues to work with other agencies to identify any obstacles to timely reporting of results of criminal background checks and improve our system of coordination. The Pre-Employment requirements (to include criminal background checks, educational attainment, and age requirements of staff) are specifically reviewed for each service type during the Contract Compliance Review process by a US Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved, Quality Improvement Organization (QIO). If a provider is found not compliant, a plan of correction is required and a follow-up visit by the QIO is performed to ensure corrective action has taken place. Also, if the provider is found out of compliance, DDSN may recoup funding for services delivered by staff that do not meet requirements. Recoupment for these specific indicators within Contract Compliance Review process was added effective July 2015. September 2014, DDSN HR revised its internal procedures to include a mandatory pre-employment processing checklist accompanying each prospective employee, regardless of job type for Regional Centers. A follow-up audit of regional HR offices was conducted in September 2015 to ensure staff is complying with this requirement. The follow up audit revealed all but one regional center were in compliance. DDSN HR Division worked with that single regional center. The center came into compliance effective December 2015. All HR offices were found in compliance with the Criminal Reference Checks

	Continued from previous page	Continued from previous page			Policy, #406-04-DD, because all requirements for employing direct care staff were completed. **October 26, 2016 DDSN requested through the fall presentation to the Senate HealthCare Sub-Committee a change in legislation related to this recommendation. DDSN requested the wording to reflect language such as "prior to interaction with consumers or vulnerable adults" rather than pre-employment. DDSN's service delivery system is experiencing a significant system wide hiring crisis. Minimizing the time between job offer and the start of employment will help with recruitment of qualified staff. This change in language will allow the new employee to start orientation but still protect individuals by now allowing contact with vulnerable adults prior to the receipt of the check. DDSN staff will work with Senate Health Care Sub-Committee staff to formalize language.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
33	The S.C. Department of Disabilities and Special Needs should eliminate the grace period and require all checks of the Central Registry of Child Abuse and Neglect to be completed and returned to the respective regional center or board/provider prior to hiring new direct caregivers. **P.45**	DDSN will require all checks of the Central Registry of Child Abuse and Neglect to be completed and returned to the respective regional center or board/provider prior to hiring new employees who will be working with minors.	DDSN	Implemented July 2014. Recoupments for indicators effective July 2015.	Directive 406-04-DD was changed in July 2014 to eliminate the 7 day grace period for DSS Central Registry Checks. DDSN has worked with DSS to resolve issues regarding delays in the receipt of information needed to complete DSS Central Registry Checks. The Pre-Employment requirements (to include criminal background checks, educational attainment, and age requirements of staff) are specifically reviewed for each service type during the Contract Compliance Review process by a US Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved, Quality Improvement Organization (QIO). If a provider is found not compliant, a plan of correction is required and a follow-up visit by the QIO is performed to ensure corrective action has taken place. Also, if the provider is found out of compliance, DDSN may recoup funding for services delivered by staff that do not meet requirements. Recoupment for these specific indicators within Contract Compliance Review process was added effective July 2015. In addition, the SC Department of Health & Human Services reviews and approves the indicators used by the QIO each year. DHHS has supported DDSN's inclusion of the Pre-Employment review in the Contract Compliance Review Process and DDSN's use of this data for evidentiary reports for CMS Waiver Assurances. September 2014, DDSN HR revised its internal procedures to include a mandatory pre-employments processing checklist accompanying each prospective employee, regardless of job type. A follow-up audit of regional HR offices was conducted in September 2015 which confirmed staff are complying with this requirement.

	Continued from previous page	Continued from previous page			**October 26, 2016 DDSN requested through the fall presentation to the Senate HealthCare Sub-Committee a change in legislation related to this recommendation. DDSN requested the wording to reflect language such as "prior to interaction with consumers or vulnerable adults" rather than pre-employment. DDSN's service delivery system is experiencing a significant system wide hiring crisis. Minimizing the time between job offer and the start of employment will help with recruitment of qualified staff. This change in language will allow the new employee to start orientation but still protect individuals by now allowing contact with vulnerable adults prior to the receipt of the check. DDSN staff will work with Senate Health Care Sub-Committee staff to formalize language.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
34	The S.C. Department of Disabilities and Special Needs should require regional centers and boards/providers to conduct retroactive South Carolina Central Registry of Child Abuse and Neglect checks on all existing direct care staff without one on file, to be completed within one year of publication of this report. P.45	DDSN is compliant with state statute. DDSN will comply with any statutory amendment enacted by the S.C. General Assembly.	DDSN	Partially Implemented September 2015 **This recommendation should be fully IMPLEMENTED November 2016**	Each regional center HR office has completed Central Registry Checks for employees hired prior to 2007 (the year such checks became part of routine HR pre-employment processing). All DDSN Regional Centers were compliant with LAC Recommendation in September 2015. No change has been implemented for community DSN Boards and private providers as the recommendation goes beyond the scope of the current law. Commission Work Session to discuss LAC recommendation implementation status held on October 15, 2015. Based on discussion Agency will review further with providers to determine the possible implications of fully implementing this recommendation to the community provider network. Discussion with providers of the DDSN Business Process Task Force held in November 2015. Concerns about HR processes for existing employees were expressed by providers. DDSN will continue discussion with providers prior to any changes in requirements. **DDSN has issued a revision to Directive 406-04-DD requiring all DDSN providers to complete a SC Central Registry of Child Abuse and Neglect check on all existing direct care staff without one on file. The revised directive is out for review and comment and is expected to be finalized in November 2016.**

No	LAC Recommendation	Agency Response	Responsible Party	Action	Comments
40	The S.C. Department of Disabilities and Special Needs should formalize its practice of seeking commission approval for procurements exceeding $100,000 into a written policy. **P.52**	DDSN will work with the Commission to formalize approval process for procurements.	DDSN	Implemented August 2014	Commission approved changes to Commission Policy 800 - 03 – CP formalizing the process and limitations for State Director approval authority on August 21, 2014. **The Commission reviewed Commission Policy 800-03-CP and changed the authority of the State Director from $250,000 to $200,000 at the October 2016 Commission meeting.**
41	The S.C. Department of Disabilities and Special Needs should require commission approval for procurements when the full contractual amount exceeds $100,000. **P.52**	DDSN will work with the Commission to formalize approval process for procurements.	DDSN	Implemented August 2014	Commission approved changes to Commission Policy 800 - 03 – CP formalizing the process and limitations for State Director approval authority on August 21, 2014. **The Commission reviewed Commission Policy 800-03-CP and changed the authority of the State Director from $250,000 to $200,000 at the October 2016 Commission meeting.**

DDSN Implementation Plan for 2008 LAC Report Recommendations

No	LAC Recommendation	Agency Response	LAC 2014 Determination	Comments
20	Require each board and provider to have its room and board calculations approved annually by the agency. **P.29**	Review and approve on an annual basis the room and board calculations of all residential service providers. This process will be formalized in the department directive concerning room and board.	NOT IMPLEMENTED DDSN believes this would be considered IMPLEMENTED today because of subsequent changes.	This is now required annually. DDSN will approve specific calculation components used in Room and Board calculations and approve annually. Additionally DDSN Internal Audit will review room and board consumer charges as part of the audit process. **The SIG completed a joint review with DDSN to evaluate the room and board calculation specifically related to HUD Housing Assistance Payments. Several providers were found to have calculated room and board incorrectly and were required to issue payback to consumers. DDSN further clarified the directives and formulated worksheets to assist the providers in correct calculations. DDSN now requires more detailed information as part of the annual approval process for provider room and board calculations. All consumers have been paid or a payment schedule has been established and approved that does not negatively impact consumer Medicaid eligibility.**

No	LAC Recommendation	Agency Response	LAC 2014 Determination	Comments
23	Monitor whether facility/agency directors schedule human rights committee training at least once a year or more often as needed. **P.30**	DDSN will amend its Human Rights Directive that training to members be held at least every three years or sooner if there is a change in the majority of the committee members since the last training. DDSN will provide training for new members.	PARTIALLY IMPLEMENTED DDSN believes this would be considered IMPLEMENTED today.	DDSN Directive 535-02-DD was revised March 3, 2009, to specify the composition and training requirements for Human Rights Committee Members, as well as the meeting frequency. Training is not required annually, it is required every three years or sooner if there is a change in the majority of members. This is consistent with the training expectations of members of provider Board of Directors. Some of DDSN's smaller contracted providers have requested, through a formal process, to meet on a less frequent schedule due to the small number of consumers that would need HRC consideration, or possibly no consumers that are in current need of HRC review/ participation. The approval of an exception is granted on a case-by-case basis after review of the provider's justification statement. Commission Work Session to discuss LAC recommendation implementation status held on October 15, 2015. This recommendation was specifically discussed. Discussion occurred around frequency of the HRC meetings and the difficulty many providers express to find HRC members to serve on the committee. Also discussed the ability for a provider to host a short training on an annual basis and the possibility of DDSN providing a video or something related to the training. Agency agreed to further discuss with local providers to determine the implications of implementing this recommendation. Discussion with providers of the DDSN Business Process Task Force occurred in November 2015. There was general consensus this would not be complicated as long as the training requirements could be done in a reasonable time frame. DDSN will propose and distribute for comment amended Directive 535-02-DD to refine training requirements for human rights committees. This action was discussed and approved by the Commission on December 17, 2015. **Directive 535-02-DD was revised in April 2016 to reflect a change to the Human Rights Committee training requirement. Training must be completed annually or more often if the majority of committee members change. A PowerPoint presentation is currently available on DDSN provider portal to assist providers with HRC member training.**

No	LAC Recommendation	Agency Response	LAC 2014 Determination	Comments
25	Require that a consumer's service coordination and service provision be performed by separate entities. **P.38**	DDSN consumers will have the choice to select their service coordination entity and service provider.	NOT IMPLEMENTED DDSN believes this would be considered PARTIALLY IMPLEMENTED today because of subsequent changes.	State is moving towards conflict free case management. But still not fully implemented, DHHS is lead agency. When DDSN established it's RFP to recruit providers in 2001 the agency instituted controls where a private provider could provide case management services or direct services, but not both. This was done to provide additional choice for individuals and families. Commission Work Session to discuss LAC recommendation implementation status held on October 15, 2015. This recommendation was specifically discussed. CMS has now stated they expect states to come into compliance with conflict free case management. Discussion occurred around all the necessary changes to facilitate conflict free case management and potential ramifications for the service delivery system. Agency requested funding for FY 2017 to begin to implement conflict free case management. **DDHS requested technical assistance from CMS related to Conflict Free Case Management. DDSN worked with DHHS to complete their request and participated throughout the technical assistance process. The CMS technical assistance team worked with the two agencies May through September 2016. The team discussed different options for the State to move into compliance. DDSN and DHHS agreed a first step towards compliance is to change the service authorization process for DDSN consumers. DDSN is moving forward with developing an internal process for approving the initial assessment and plan. This will remove the conflict of the case management provider completing the authorization of services for the services they provide. This is a first step towards compliance. DDSN will continue to work with DHHS, providers and families to implement additional changes as necessary to bring South Carolina into compliance with Conflict Free Case Management requirements.**

No	LAC Recommendation	Agency Response	LAC 2014 Determination	Comments
26	Hold the DSN boards accountable for their fiscal management. If a board is not financially responsible, DDSN should implement contractual controls, and, if needed, contract with other providers for services. **P.39**	DDSN will continue to hold all contract providers, including boards, accountable.	NOT IMPLEMENTED DDSN believes this would be considered PARTIALLY IMPLEMENTED today leading toward full IMPLEMENTATION	DDSN continues to work with providers to ensure good fiscal management. Has implemented "freezes" or other controls as necessary. Terminated the contract with two Early Intervention (EI) providers after failure to follow contract requirements and multiple attempts at remediation (March 2014 and December 2014). Implemented a freeze on another EI provider, required provider to change payment practices, that provider remains in the system because they complied with necessary changes (January 2015). DDSN did not institute sanctions but provided extensive financial technical assistance to two DSN Boards within the past two years. DDSN constantly monitors the financial health of the provider network. No provider within the DDSN system is at significant financial risk at this time based on current financial reports. Commission Work Session to discuss LAC recommendation implementation status held on October 15, 2015. This recommendation was specifically discussed. Discussion occurred about DDSN's monitorship of the financial status of local providers. DDSN does not "bail out" any provider who is in financial trouble but instead works with that provider to regain financial solvency. Discussed the difference in issuing sanctions, particularly of a financial nature, versus working with the provider to identify contributing factors and corrective actions address their financial difficulties. No change in action was recommended by the Commission as a result of discussions. **In spring 2016, the DDSN Commission engaged in formal strategic planning. One of the goals relates to provider oversight and holding providers accountable. As part of the implementation process for this strategic planning item, DDSN formed a task force. One direction of the committee is to establish financial sanctions for non-compliance and repeated citations for the same issue. Another strategy discussed includes charging the provider for some training or technical assistance that is required in response to poor performance. DDSN will continue to formalize and implement the recommendations of the task force with the approval of the DDSN Commission.**

No	LAC Recommendation	Agency Response	LAC 2014 Determination	Comments
43	Arrange for independent audits of all of its most recent fiscal year Medicaid-filed cost reports. **P.54**	Medicaid-filed cost reports will be audited this fiscal year.	PARTIALLY IMPLEMENTED DDSN believes this would be considered IMPLEMENTED today.	DDSN has implemented pending CMS final determinations. **In August 2016 CMS verbally approved the methodology for computing administrative costs. This was the reason for the delay on completion of the DDSN cost reports. DDSN is now in the process of completing cost reports for pervious years applying the methodology recently approved by CMS.** **In June 2016 DDSN received the results of the full financial audit conducted of DDSN. DDSN received an unmodified opinion, the best possible outcome. The State Auditor indicated the audit provided assurances that DDSN's financial records are being maintained accurately.**
44	Arrange for independent audits of all of its Medicaid-filed cost reports periodically as is appropriate based upon initial audit results. **P.54**	DDSN will arrange for ongoing periodic independent, outside audits of all costs, service reports, etc.	NOT IMPLEMENTED DDSN believes this would be considered IMPLEMENTED today.	DDSN has implemented pending CMS final determinations. On October 15, 2015 the Commission voted to engage in a full financial audit of the agency for fiscal year 2015. **DDSN staff worked with the State Auditor and the independent audit firms to provide financial and other information as requested.** **In June 2016 DDSN received the results of the full financial audit conducted for DDSN. DDSN received an unmodified opinion, the best possible outcome. The State Auditor indicated the audit provided assurances that DDSN's financial records are being maintained accurately.**

Attachment G

SC Department of Disabilities and Special Needs
FY 2017 Monthly Financial Summary - Operating Funds
Month Ended: October 31, 2016

	General Fund (Appropriations)	Medicaid Fund	Other Operating Funds	Federal and Restricted Funds	Total
FY 2016 Unreserved Cash Brought Forward	**$ 939,561**	**$ 527,877**	**$ 877,569**	**$ 16,190**	**$ 2,361,197** [1]
FY 2017 YTD Activity					
Receipts/Transfers					
Revenue	$ 238,842,266	$ 124,418,815	$ 2,412,052	$ 274,327	$ 365,947,460
Interfund Transfers	$ (25,000,000)	$ 25,000,000	$ -	$ -	$ -
Total Receipts/Transfers	**$ 213,842,266**	**$ 149,418,815**	**$ 2,412,052**	**$ 274,327**	**$ 365,947,460**
Disbursements					
Personal Services	$ (15,677,911)	$ (4,974,670)	$ (8,846)	$ (56,950)	$ (20,718,377)
Fringe Benefits	$ (6,604,895)	$ (2,185,605)	$ (939)	$ (23,003)	$ (8,814,442)
Other Operating Expense	$ (57,043,724)	$ (132,367,233)	$ (123,890)	$ -	$ (189,534,847)
Capital Outlays	$ -	$ (86,157)	$ -	$ -	$ (86,157)
Total Disbursements	**$ (79,326,530)**	**$ (139,613,665)**	**$ (133,675)**	**$ (79,953)**	**$ (219,153,823)**
Outstanding Accounts Payable Balance	**$ (219,408)**	**$ (808,519)**	**$ (7,902)**	**$ -**	**$ (1,035,829)**
Unreserved Cash Balance - 10/31/2016	**$ 135,235,889**	**$ 9,524,508**	**$ 3,148,044**	**$ 210,564**	**$ 148,119,005**

1 $5,000,000 of the total cash balance has been reserved for future Medicaid Settlements

FM Budget vs Actual

Author JGRANT **Status of Data** 11/7/2016 04:38:50

Filter Information

Table

Fiscal year	Business area	Funded Program - Bud	Original Budget	Budget Adjustments	Current Budget	YTD Actual Expense	Balance Before Commitments	Commitments and Other Transactions	Remaining Balance
2017	DDSN	ADMINISTRATION	$ 7,278,969.00	$ 172,575.00	$ 7,451,544.00	$ 2,357,566.22	$ 5,093,977.78	$ 783,215.30	$ 4,310,762.48
		PREVENTION PROGRAM	$ 257,098.00	$ 0.00	$ 257,098.00	$ 19,200.00	$ 237,898.00	$ 0.00	$ 237,898.00
		GWOOD GENETIC CTR	$ 11,358,376.00	$ 0.00	$ 11,358,376.00	$ 4,102,655.00	$ 7,255,721.00	$ 6,205,426.00	$ 1,050,295.00
		CHILDREN'S SERVICES	$ 14,859,135.00	$ 7,251,573.00	$ 22,110,708.00	$ 2,921,486.31	$ 19,189,221.69	$ 0.00	$ 19,189,221.69
		Babynet	$ 9,312,500.00	$ 0.00	$ 9,312,500.00	$ 4,386,688.00	$ 4,925,812.00	$ 0.00	$ 4,925,812.00
		IN-HOME FAMILY SUPP	$ 102,211,827.00	-$ 15,562,850.81	$ 86,648,976.19	$ 18,979,373.14	$ 67,669,603.05	$ 18,525,486.11	$ 49,144,116.94
		ADULT DEV&SUPP EMPLO	$ 67,475,832.00	$ 12,405,105.00	$ 79,880,937.00	$ 28,069,942.40	$ 51,810,994.60	$ 0.00	$ 51,810,994.60
		SERVICE COORDINATION	$ 22,707,610.00	$ 50,145.00	$ 22,757,755.00	$ 7,457,647.92	$ 15,300,107.08	$ 879,498.00	$ 14,420,609.08
		AUTISM SUPP PRG FY10	$ 14,113,306.00	$ 22,720.00	$ 14,136,026.00	$ 3,832,155.89	$ 10,303,870.11	$ 1,295,422.50	$ 9,008,447.61
		Pervasive Developmental Disorder (PDD) Program	$ 10,780,880.00	-$ 500,000.00	$ 10,280,880.00	$ 1,605,376.89	$ 8,675,503.11	$ 1,710,698.71	$ 6,964,804.40
		HD&SPINL CRD INJ COM	$ 3,040,532.00	$ 673,210.00	$ 3,713,742.00	$ 987,564.48	$ 2,726,177.52	$ 0.00	$ 2,726,177.52
		REG CTR RESIDENT PGM	$ 73,912,065.00	$ 1,445,686.00	$ 75,357,751.00	$ 21,448,985.04	$ 53,908,765.96	$ 6,716,267.08	$ 47,192,498.88
		HD&SPIN CRD INJ FAM	$ 26,258,987.00	$ 2,438,539.00	$ 28,697,526.00	$ 6,245,157.31	$ 22,452,368.69	$ 7,566,678.93	$ 14,885,689.76
		AUTISM COMM RES PRO	$ 23,557,609.00	$ 0.00	$ 23,557,609.00	$ 5,144,446.77	$ 18,413,162.23	$ 108,039.36	$ 18,305,122.87
		INTELL DISA COMM RES	$ 311,439,097.00	-$ 308,878.00	$ 311,130,219.00	$ 103,517,227.16	$ 207,612,991.84	$ 40,557,549.82	$ 167,055,442.02
		STATEWIDE CF APPRO		$ 0.00	$ 0.00		$ 0.00		$ 0.00
		STATEWIDE PAY PLAN		$ 0.00	$ 0.00		$ 0.00		$ 0.00
		STATE EMPLOYER CONTR	$ 29,857,979.00	$ 1,004,673.00	$ 30,862,652.00	$ 8,813,502.82	$ 22,049,149.18	$ 0.00	$ 22,049,149.18
		DUAL EMPLOYMENT				$ 677.08	-$ 677.08	$ 0.00	-$ 677.08
		Lander University Th		$ 300,000.00	$ 300,000.00	$ 300,000.00	$ 0.00	$ 0.00	$ 0.00
		Result	**$ 728,421,802.00**	**$ 9,392,497.19**	**$ 737,814,299.19**	**$ 220,189,652.43**	**$ 517,624,646.76**	**$ 84,348,281.81**	**$ 433,276,364.95**

South Carolina Department of Disabilities & Special Needs
Analysis of Expenditures July 1, 2016 through September 30, 2016
Regional Centers

Description	Annual Budget	YTD Expenditures	YTD Balance	% Expended
Regional Centers				
Personal Services	$ 51,530,225	$ 14,860,324	$ 36,669,901	29%
Other Operating	$ 12,437,268	$ 2,564,325	$ 9,872,943	21%
Total Regional Centers	$ 63,967,493	$ 17,424,649	$ 46,542,844	27%
Midlands Center				
Personal Services	$ 11,166,622	$ 2,973,486	$ 8,193,136	27%
Other Operating	$ 2,919,582	$ 565,505	$ 2,354,077	19%
Total Midlands Center	$ 14,086,204	$ 3,538,991	$ 10,547,213	25%
Whitten Center				
Personal Services	$ 14,934,773	$ 4,503,263	$ 10,431,510	30%
Other Operating	$ 3,776,304	$ 698,155	$ 3,078,149	18%
Total Whitten Center	$ 18,711,077	$ 5,201,418	$ 13,509,659	28%
Coastal Center				
Personal Services	$ 11,879,025	$ 3,391,492	$ 8,487,533	29%
Other Operating	$ 2,753,989	$ 640,615	$ 2,113,374	23%
Total Coastal Center	$ 14,633,014	$ 4,032,107	$ 10,600,907	28%
Pee Dee Center				
Personal Services	$ 13,549,805	$ 3,992,083	$ 9,557,722	29%
Other Operating	$ 2,987,393	$ 660,050	$ 2,327,343	22%
Total Pee Dee Center	$ 16,537,198	$ 4,652,133	$ 11,885,065	28%

SC Department of Disabilities and Special Needs				
Analysis of Funding per the Appropriations Act for Selected Areas				
October 24, 2016				
Program Area/Line Item	**FY 17**	**FY 16**	**Difference**	**Notes**
Greenwood Genetic Center	$ 11,358,376	$ 9,968,376	$ 1,390,000	Difference reflects increase as requested during Agency Budget Request for 2017 as related to budgetary needs for GGC expansion efforts.
Autism Family Support Services	$ 14,113,306	$ 14,113,306	$ -	The initial Appropriation amount for Autism Family Support Services is the same in both Fiscal Years Appropriations Act. Funds requested during the Agency Budget Request process for waiting list reduction efforts are placed in the ID In-Home Family Supports program and are transferred to the Autism Family Support Services program as needed. Existing authorization for FY 17 is sufficient to cover the current expansion needs in the Autism service population.