

Appendix to the State Transition Plan  
Public Comments

Date	Comment	Response	Plan Change	Change Made or Rationale for No Change
1	<p>9/16/2014</p> <p>In regard to the ruling requiring home and community based services to be provided in "community-like" settings: First, I will address the issue of "home based services". I must ask the obvious question: How can "home based services" be taken out of the home and into the community and still be "home based"? Seems like an impossibility to me! This does not affect my special needs adult daughter right now, but I suspect it could in the future, and I don't want to have to worry about what that could mean. A question that comes to mind is, " Will my daughter and others like her be forced into large group home settings in the future instead of smaller, more home-like environments?            And now I will address the issue of "community based services". It is my opinion that this will be very harmful to many of the special needs adults in Nebraska.            From my observation there are many in the special needs adult community who do not do well out in the "community", some because of "sensory overload", others because they haven't the ability to communicate well enough to hold a normal job, or socialize appropriately with other people, to be able to work with others out in the "community". I believe such persons derive great benefit from "sheltered" workshops which are supervised by a trained staff. These persons gain self esteem and pride from being able to work and earn money much like other people. I believe that this is good for them as it will make them happier and more well adjusted members of our community.            Thank you for allowing me to comment on this ruling.</p>	<p>Under the Home and Community Based Services (HCBS) Final Rule and State Transition Plan (STP), HCBS waiver services may still be provided in a range of settings currently used as long as the settings have qualities defined in the Final Rule. The HCBS Final Rule includes additional requirements for person-centered planning to ensure individual goals, needs and choice determine services provided and the settings in which they are provided.</p>	No	The response addresses the question and did not require a change in the plan.
2	<p>9/15/2014</p> <p>I am writing to express my concern about the effect of legislation CMS 2249-F and CMS 2296-F. I am aware that not every person with special needs can function in the community. Some persons needs are best served in a controlled environment. Those persons, who can function in a controlled environment, cannot function in the general community.            I feel that the legislation tries the "one approach fits all". Please do not place a segment of the special needs population in an environment that will be counter productive to these individuals. In essence and in fact, you are doing a greater injustice to those special needs individuals that best function in a controlled environment.            I can't imagine the stress and unhappiness a segment of the special needs population will be forced to endure if this legislation is followed.</p>	<p>The Centers for Medicare and Medicaid (CMS) CMS-2249-F and CMS 2296-F are federal regulations that Nebraska Medicaid Home and Community Based Services (HCBS) waivers must follow. It is agreed it is important not to create stress and unhappiness for individuals receiving waiver services. States have until March 2019 to comply with requirements, and during that time, State staff will make available technical assistance resources for providers to help them understand and comply with requirements. HCBS waiver services may be still provided in the range of settings currently used, as long as the settings have qualities defined in the HCBS Final Rule and do not have qualities of an institution or have the effect of isolating an individual from the broader community. In addition, Nebraska Medicaid HCBS waivers will continue person-centered planning to ensure approaches are not "one approach fits all" but rather delivery of services in a manner that reflects personal preferences and choices and contributes to the assurance of individual health and welfare.</p>	No	The response addresses the question and did not require a change in the plan.

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3	9/19/2014	I have a few thoughts about improvements that could be made in AL's- Med carts are very institutional. Food-More choice about when and where they can eat and some way to assure that it is prepared properly and appealing (at least to most residents). It seems like food in AL's attached to NF's is more likely to be poor quality and cold (since it comes from across the building). Availability of condiments to season their food more to the client's preference. (Hot sauce, Mrs. Dash, etc.). Requiring containers that the client can open them selves-no packets. Accessible toaster, microwave, coffee pot, milk with a variety of snacks they can help themselves to. Activities-Separate programs for them with their peers and in the AL space. Not much-but a few ideas.	No	The response addresses the question and did not require a change in the plan.
4	9/30/2014	By saying homelike do mean in an actual home (residence) or are you also including people the are living in an assisted living facilities that are homelike. And what about people that receive some type of out patient treatments such as physical therapy at a nursing facility or other type of treatments. And does this have anything to do with the type of assistance received in a persons home.	Yes	The updated plan includes added narrative (Section 5, Applicable Nebraska HCBS Waiver Settings) to provide improved explanation.
5	9/28/2014	Did I do something wrong Why didn't you respond to my Email do I not have a right to receive answers, or is that just reserved to special personal even if you think my questions are stupid you should be polite and respond. By saying homelike do mean in an actual home (residence) or are you also including people the are living in an assisted living facilities that are homelike. And what about people that receive some type of out patient treatments such as physical therapy at a nursing facility or other type of treatments. And does this have anything to do with the type of assistance received in a persons home.	Yes	Please see the description of the change made to the State Transition Plan in the immediately preceding comment.
6	9/30/2014	Do people who have been given Power of Attorney by their disabled family members lose the ability given them in helping make decisions? Who has the final say, the State or those given POA by their family member who is disabled? Is the State able to "limit" our POA or guardianships? Can we be overruled? In our decisions?	No	The HCBS Final Rule does not alter the scope of an individual's authorized representatives role in helping make decisions, and this is not applicable to the State Transition Plan.

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7	9/30/2014	<p>What is the impact on an individual who has a guardian? Will the presence of a guardian and their wishes be a reasonable justification for modification of requirements documented in the "person-centered-plan". If there a danger that people with guardians who fear the community will continue to find themselves confined to congregate settings?</p>	No	<p>The HCBS Final Rule does not alter the scope of an individual's authorized representatives role in helping make decisions, and this is not applicable to the State Transition Plan.</p>
8	9/30/2014	<p>My name is Kathy Hoell and I'm here testifying as an individual. First of all, I would like to thank DHHS for all the work they put into the Home and Community Based Services process and the changes that have been involved to make this comment period accessible to individuals with disabilities, family members and services providers. However, I am concerned about the number of people that are not going to be able to testify. Transportation is such a big issue in Nebraska, especially accessible and affordable. Since DHHS has access ro videoconferencing system that reaches statewide it would have been possible to obtain public comments from all corners of the state at minimal expense. After extensive review of CMS's final rule on HCBS, I really like the final rule and I hope the state of Nebraska will make a sincere effort to implement these tules as they have been presented. However I do have some concerns about he transition plan that you released: 1) The repeated use of the term "community like." I am not sure what that means. "Community like" is not used in the Final Rule. It says that people with disabilities have to be included in the community like their non-disabled peers or they use the term community based. 2) I found the transition plan to be rather confusing. No settings that are currently in existence are identified as HCBS. The timelines are not consistent throughout the document. There is a lack of a narrative to fully describe how this process would evolve. 3) I believe some HCBS settings in Nebraska will not comply with the definition as defined by CMS, for example the TBI Waiver which only funds Quality Living which is an institution and their Assisted Living Apartments are on their property, plus the Autism Waiver which remains unfunded but not addressed. CMS has indicated that states should provide autism services. So why not included? The Transition Plan seems to gloss over places that don't meet the definition, The Final Rule talks about a heightened scrutiny process to evaluate these sights. 4) I Realize that the state has no responsibility to educate and make consumers aware of these changes but I think it would be to the advantage of DHHS in done so. I understand that DHHS has undertaken a number of programs that are all operating as the same time. I'm sure this is rather problematic however it is imperative that people with disabilities arnd seniors are able to live independently as possible with dignity and respect, just like anyone else. I would encourage you to remain involved with consumers and other advocacy organizations who share their concerns with you and to be active partners with them as everyone moved forward on this process.</p>	Yes	<p>The updated draft includes narrative, terminology consistent with the federal regulation, identification of Nebraska settings, and consistent timelines. In addition, the updated plan addresses the heightened scrutiny process for settings categorized as presumed institutional per results of completed settings assessments.</p>

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9	9/30/2014	Question number of Clients. Question Cost of Transition and result programs and services. Question Who funds the costs?		The updated State Transition Plan (STP) includes the approximate number of individuals served by each Nebraska Home and Community-Based Services (HCBS) waiver. The state has not quantified the cost of implementing the STP. To minimize cost and administrative burden, activities associated with transitioning to and maintaining compliance will be incorporated into existing processes where possible. The costs are funded through existing Nebraska Department of health and Human Services (DHHS) budgets.	Yes  The number of individuals served by each waiver has been included in the updated plan.
10	9/30/2014	I believe the time frames are reasonable and the plan makes sense to improve the lives of people with Disabilities. I believe my major concerns would be surrounding leases management of personal funds, transportation, and the provider operated settings we rely on community modified. I am concerned about individuals receiving support being held responsible for damages to property that could be passed to be approached with caution. Providers are often obligated to manage.		Comments regarding leases have been addressed in the updated State Transition Plan (STP), which includes plans to coordinate with stakeholders to design a lease template, make available technical assistance regarding lease agreements, and monitoring lease expectations. In moving forward with systemic changes to support compliance with the Home and Community-Based Services (HCBS) Final Rule, The Nebraska Department of health and Human Services (DHHS) Division of Medicaid and Long-Term Care(M-LTC) and Developmental Disabilities (DD) will continue to reach out to individuals, parents/guardians, providers and other stakeholders to ensure any changes to the Nebraska Administrative Code which govern the use of personal funds and property and providers' role in supporting individuals in managing those resources are clear and offer protections for individuals served as well as providers.  It is agreed that public transportation availability is a challenge in some communities. It is expected that staff in HCBS settings are knowledgeable about the broad range resources that are available, including public, commercial, and other transportation options. Other transportation options may include partnering with a local churches, using an individual's natural/informal supports, or developing a relationship with a local business. Area Agencies on Aging have transportation resources for their regional areas, and the Nebraska Department of Roads Transit Directory, <a href="http://www.nebraskatransit.com">http://www.nebraskatransit.com</a> , lists several transportation options.	Yes  Consideration of issues of leases and personal funds management will be incorporated in implementation of systemic changes to support compliance with the HCBS final rule.

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11	<p>9/30/2014</p> <p>Disabilities Rights Nebraska is the designated Protection and Advocacy organization for people with disabilities in Nebraska. We appreciate this opportunity to comment on the proposed transition plan for home and community-based waivers in Nebraska. We are still in the process of reviewing and analyzing the new federal regulation under which the waivers discussed will function. Thus our comments today will be brief, with more comment to follow by the October 15th deadline.</p> <p>1. Narrative description It is difficult to gather a clear conceptualization of how the state plans to process to accomplish transition. Reading the matrix, while helpful when deciding what tasks will be assigned to achieve a set of benchmarks, is not “user friendly” when trying to understand what the goals are and how Nebraska plans to accomplish those goals. The overall goals of the federal regulations are known as are the minute details of tasks, schedule and actors involved displayed in the matrix, but what is missing is a narrative description of how the details create the path to transitions.</p> <p>2. Education Education (sic) the public, and especially those individuals receiving services, about the new federal regulations is critical to achieve the goals set forth by the regulations is critical to achieve the goals set forth by the regulations, to ensure accountability,</p>	<p>Comments regarding narrative description have been addressed in the updated plan. Throughout the transition period, Nebraska Medicaid Long Term Care (M-LTC) and Nebraska Developmental Disabilities Division (DDD) staff will provide information to waiver participants and their authorized representatives regarding settings requirements. The Home and Community-Based Services (HCBS) State Transition website will be updated throughout the transition period with additional opportunities for education and provides assessment tools used for settings assessment.</p>	Yes	<p>The updated plan includes narrative and terminology consistent with the HCBS final rule and identifies milestones for stakeholder outreach and education activities. The updated plan explains the approach to settings assessment and includes timelines for transition activities.</p>
12	<p>10/8/2014</p> <p>Hi Guys. My name is Jeremy Wolzen. I am a resident at QLI in Omaha and have been for over 12 years and I want to say that to me and my parents and siblings think that this is a wonderful facility and I couldn't ask for a better fit for me as they employ good, quality people and with me being less disabled than several of the residents who are more disabled than I am so I'm allowed to come and go as I please as long as I have my medication with me which is my responsibility. It is a well run and organized facility that I feel blessed to call home and I just wanted to add my comments and I have. thank you for allowing me to do so.</p>	<p>Thank you for the comments about your experience. Comments from individuals receiving services and all stakeholders are valuable and are encouraged during the transition process.</p>	No	<p>This comment expressed gratitude for a current Home and Community Based Services (HCBS) waiver service provider, rather than thoughts regarding plan content.</p>
13	<p>10/8/2014</p> <p>Our Son, Jeremy Wolzen, has lived at QLI for 12+ years and we continue to be impressed with his care. The administration and staff always put the residents and their needs first. They continue to strive for improvements/updates in all areas of QLI's facilities. The environment is "home like" and well maintained. It's the complete package to meet all of Jeremy's needs. QLI is indeed the quality of living that fits Jeremy perfectly....there's no better facility!!!! You are much more appreciated than there few words convey. Thank you for an outstanding facility!!!</p>	<p>Thank you for the comments about your experience. Comments from individuals receiving services and all stakeholders are valuable and are encouraged during the transition process.</p>	No	<p>This comment expressed gratitude for a current Home and Community Based Services (HCBS) waiver service provider, rather than thoughts regarding plan content.</p>

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14	9/30/2016	<p>I received a post card notice about public meetings being held regarding compliance regulations for community based services that began 3/17/14. I want to share that I do enjoy this option to use my funding for CLDS services. This allows me more independence and choices in my daily life. While it is difficult in some cases to 'find' and hire people willing to work these services, I have been fortunate so far. I worry, though, about replacing them if that becomes necessary. This is a huge issue for those of us who do not have access to a place to find others to fill these hours. Has this concern been addressed or is there an avenue I am not aware of? Secondly, these regulations are particularly restrictive when I need my non-specialized attendant to be with me on over night excursions or vacations. This makes it hard for me to ask them to take or go with me when they are not compensated for attending to my physical needs. Sometimes I need toileting, a medication, a drink, or to be covered/uncovered while sleeping. There is always the possibility of an emergency situation to have to leave the room. All these issues are important and a concern for those of us not able to totally care for ourselves. Also, sometimes I am ill and need someone to spend the night with me to attend to those needs. There could be other reasons that I would need an attendant with me at night that no one can even imagine until that 'issue' would arise. So, in conclusion, what I am saying is that I feel I am being restricted from using my 'hours' for my community like needs. I try to live as normal a life as possible and by not being able to utilize my attendants to do those things that 'non-physically disabled' people can do without as much dependence on others--seems to be a contradiction of why this option exists. As much as my attendants want to give of their time to assist my overnight needs, they must be compensated for the time they spend with me. It's called a JOB and they should be paid.</p>	No	<p>The State Transition Plan scope does not include utilization of CLDS attendant services.</p>

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15	<p>10/2/2014</p> <p>I appreciate the opportunity to comment on the <u>Transition Plan to Implement Settings Requirements for Home and Community-Based Services Adopted by CMS on March 17, 2014 for Nebraska’s Home and Community-Based Services Waiver</u>. The implementation of the new rules could have significant impact on people who need and use home and community-based services that are funded through DHHS programs. I appreciate the challenge facing the Department, the serious effort that you have made to develop a comprehensive plan and offer the following recommendations. If I can provide any clarification of these comments, please contact me. Aged and Disabled and Traumatic Brain Injury – Page 13 of 70</p> <p>1. Outreach General Requirement Identify and implement effective strategies... AARP wholeheartedly supports the expected outcome. To achieve that outcome I suggest that DHHS staff schedule regular meetings with a coalition of stakeholder organizations that has formed to discuss the implementation of the new CMS regulations that are the subject of this transition plan. Regular meetings with the coalition would be an efficient means of sharing information about the status of the transition plan and obtaining suggestions and recommendations on how the transition can best be implemented.</p> <p>2. Outreach General Requirements Educate providers...The expected outcome is as follows. “Inform providers and public.” I recommend that the outcome statement be expanded to indicate the content of the information provided and its purpose. It wasn’t clear to me.</p> <p>3. Outreach General Requirements Waiver participants understand...This is a laudable action item and expected outcome. As was the case in Recommendation 1, I would suggest that the coalition would be an effective resource in achieving the outcome. I recommend that the Department schedule regular meetings with the coalition to facilitate participant education.</p> <p>4. Each of the previous action items (1-3) have a targeted implementation date of “ongoing” which adds a degree of ambiguity to the action item. I recommend including a means of measuring the degree to which the action item has been accomplished and including a targeted completion date.</p> <p>I also recommend that the plan be amended to incorporate outreach action steps throughout the document rather than in a separate section so that it is clear that DHHS will consult stakeholders throughout the process. I did see some references to stakeholder involvement, but I believe that it would be useful to the Department to have direct stakeholder involvement in every step of the development and implementation of this plan.</p> <p>5. Identification Community Integration Residential Identify residential services settings...</p> <p>I wasn’t sure if this action item was intended to produce a list of specific residential facilities that are not community-based or if it was intended to produce a set of criteria that would be used to make that determination. I did note the Transition Plan Addendum including the section “Qualities of an HCBS Setting”. It is stated that the AD waiver will assess the degree to which providers comply with the requirements. Presumably, there will be criteria developed to complete that assessment. So if that wasn’t the intent of this action step, I recommend adding such an action step right before this one. This is potentially the most controversial part of the transition plan. While I support the concept of assuring the HCBS Waiver services are provided in a community setting, I wonder how the qualities will be applied to a residential facility that specializes in care of persons with dementia. If the effect of the rules is to force an assisted living facility resident with dementia who is covered by an HCBS Waiver to move to a nursing facility where he would be covered by Medicaid State Plan, the new rules would be counterproductive. I did note that under the heading of Nebraska Health and Human Services Resources is “Listing of all residential settings that meet at least one of the ‘not likely’ community criteria”. I interpret this to mean that a list of facilities that may not be eligible for HCBS Waiver reimbursement has been developed. If that assumption is correct, I recommend that</p>	<p>This response addresses the intent of the comments provided in 2014, focusing on those not specifically explained in the updated plan. The Nebraska Department of Health and Human Service (DHHS) Divisions of Medicaid and Long-Term Care (M-LTC) and Developmental Disabilities (DD) have begun implementing stakeholder outreach activities regarding current initiatives, include Long-Term Supports and Services (LTSS) Redesign and the State Transition Plan (STP) and will continue these efforts throughout the transition period. Updated information regarding implementation of the STP can be found at the STP website (<a href="http://dhhs.ne.gov/Pages/Transition.aspx">http://dhhs.ne.gov/Pages/Transition.aspx</a>) . Stakeholders interested in additional information regarding the STP are encouraged to contact the State Transition Plan team at <a href="mailto:dhhs.hcbspubliccomments@nebraska.gov">dhhs.hcbspubliccomments@nebraska.gov</a>, call the Division of Medicaid and Long-Term Care at (402)471-9147, call the Division of Developmental Disabilities at (402) 471-6038.</p> <p>Regarding application of Home and Community-Based Services (HCBS) qualities to residential facilities specializing in care of persons with dementia, these individuals have the same rights to autonomy and choice as other individuals who do not have dementia. Most individuals in dementia care units or facilities, because of advancing dementia or other issues, need to access the community with the help of an escort, such as family, friends or staff to assure safety. If an individual is not able to access the community by themselves, the reason for the restriction must be documented and supported in the individual's person-centered plan. Individual restrictions should be revisited regularly and based upon the individual's needs to assure they remain appropriate.</p>	Yes	The updated plan content and format addresses questions in this comment.

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	<p>the list be made available to the public so that there is clearer understanding of the impact of the proposed rules.</p> <p>6. Identification Community Integration. All. I recommend taking a closer look at the Start and Completion Dates. Many of the action steps had a six-month range for completion. As I look at the action steps there seems to be a logical sequence for performance. Setting sequential completion dates would aid in managing the process and in providing a clearer understanding to the public about how the transition process will work.</p> <p>7. Analysis Community Integration. Distinguish “likely not” community... While the matrix provides a comprehensive overview of the action items, I did have difficulty distinguishing things that are considered Identification from those that are considered Analysis. It is my understanding that this action steps related to Analysis represent the application of the criteria developed in the Identification section. And I assume that the next action step following Analysis would require the development of a process through which a provider that does not meet the criteria can achieve compliance. But these assumptions are called into question when I look at the start and completion dates and see that the Analysis precedes the Identification, which would mean that, if my assumptions were correct, the criteria would be applied before they are developed. It would be helpful to clarify the intent of the actions steps as they relate to the process of developing a list of residential facilities that are not in compliance with the new rules.</p> <p>General Comment 8. Performance Metrics There are action steps related to development of performance measures throughout the plan. It is essential to be able to measure progress. But the development of some measures seems to be sequenced late in the process. I recommend that the performance metrics be developed as early in the planning process as possible and be revisited often. What we measure is often what we get. Attention to the development of the right performance measures is essential.</p>			
16	10/8/2014	<p>In response to your letter asking for comments for individuals who receive waiver services. I'm a single female of 70 years. I receive several of your services. These services are a tremendous help in enabling me to remain in my own home and maintain a level of independence. I'm on oxygen 24/7. A-Fib heart condition and COPD. I am missing a left hand (birth defect) and I spent nearly 3 months in the hospital. With a class of C-Diff which greatly weekend my immune system; also my physical capabilities. I take a variety of daily medications. Chore services helps me to maintain a clean and healthy living environment. Also to any assistance with bathing and cooking. Midland aging has been a Good send. Helping out with home repairs and variances changes to help me with devices for bath room safety, and safety home entrance etc. The staff I have contact with are awesome. Kind, patient, helpful, caring. They show genuine care; concern for my health &amp; safety. I appreciate all they do to help me retain as much dignity and independence as is possible in my condition. I have nothing but positive comments concerning "HCBS services".</p>	Thank you for your comments.	<p>No</p> <p>This comment expresses support of HCBS services in received in an individual home setting, rather than thoughts regarding plan content.</p>

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17	<p>10/9/2014</p> <p>I would like to submit the following comments on behalf of the Nebraska Planning council on Developmental Disabilities on the “Transition Plan to Implement the settings Requirements for the Home and Community based Services Adopted by CMS on March 17, 20014 for Nevraska’s Home and Community-based Waivers.” We appreciate the opportunity to comment on the plan and acknowledge the work that went into its development. The follow are offered for your consideration:            The plan may be improved and made more user friendly for self-advocates, families, and others by expanding the section titled Nebraska’s’ Transition Plan to include more detail about the outreach, identification, analysis, and remediation activities and the overall process. The impact and final outcomes of these could be described for those who find the matrix format overwhelming or too difficult to follow. It does not need to be lengthy, nut the document would benefit from a more detailed explanation of what is planned during the transition.</p> <ul style="list-style-type: none"> <li>• We commend the Division of Medicaid and Long Term Care for including stakeholder advisory council, and the Quality Council in the identification and analysis tasks proposed. The inclusion of the individuals from outside the Department in these tasks insures meaningful input early in the process.</li> <li>• In contrast we could not see that the Developmental Disabilities Division had involved any external group in the identification and analysis other than as resources in gathering the survey data. We encourage them to consider adding groups like their own Developmental Disabilities Advisory Committee or the Nebraska Planning Council on the Developmental Disabilities as partners in both the identification and analysis tasks. These groups could assist then with not only the task of identifying rules and regulation, setting s etc., but also with the analysis of what may need to be revised to meet the new regulations.</li> <li>• The Nebraska Planning Council on Developmental Disabilities is pleased to see that we are included in the matrix as a resource under both outreach and remediation for the Developmental Disabilities waivers. The Council supports efforts for needed systems change. However, the Council does believe that their activities would have greater impact if they were coordinated with the Developmental Disabilities Division during the entire process, including all four tasks.</li> </ul> <p>Again, we thank you for the opportunity you have given us to comment. We are looking forward to working with both Division as they implement this Transition Plan to encourage true integration for individuals on Home and Community-based Services waivers in Nebraska.</p>	<p>The updated plan addresses comments and suggested about user-friendly information. It is agreed that external stakeholder group input and involvement is important and that activities of the Nebraska Planning Council and the Division of Developmental Disabilities are most effective when coordinated. The Division of Developmental Disabilities has implemented a monthly stakeholder meeting. Information about additional stakeholder engagement is included in the updated plan.</p>	Yes	<p>The updated plan content and format addresses recommendations about the plan's user friendliness and stakeholder engagement.</p>

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18	<p>10/14/2014</p> <p>Thank you for giving us an opportunity for comments on the DHHS's proposed plans regarding home and community based services. Home and Community based services were designed to respect and appreciate each person's individual abilities in the context of their specific aspirations and unique circumstances. It's role is to support people in the appropriate atmosphere where self-expression, self-understanding and personal growth can flourish.</p> <p>Each individual is to be encouraged to participate in the design of a personal plan that would help them achieve their goals. Objectives are to be determined by the individual and his/her support team, and are to be reviewed and updated periodically.</p> <p>Our tax dollars are dedicated to providing services to accommodate each individual to the fullest extent possible. For our son, this perfect environment has been found with a portion of his hours each day being spent in his care provider's home.</p> <p>Adam is a 24 year old young man with Down Syndrome. He resides with his us, his biological parents. He is the third child of five, with one younger sibling still living in the home. The long term placement for Adam is that he will reside with us until that is no longer possible. At that time, he will live with one of his siblings. Arrangements have been made for his care.</p> <p>Adam's speech is limited to one to two word utterances, which make him difficult for the general public to understand. He has limited fine motor skills in his fingers. He has received many years of occupational therapy and still has difficulty with pinching, handwriting, and grasping. Adam is not toilet trained. He continues to wear men's diapers and requires changing for urination and bowel movements.</p> <p>Adam has had a full-time job coach at the Super 8 Motel in Alma, NE, where he vacuumed and took out the trash. This job site did not remain permanent because he required very close supervision, he had difficulties staying on task and completing his jobs. He is not able to complete more than 10-15 minutes continuous vacuuming. He required hand over hand assistance to complete tasks. He has also had a full-time job coach assisting him at the Agri Coop Hardware. At this business, he faced the shelves. This also required hand over hand assistance and was not sustainable employment. Adam is active in his local community through his parents' involvement. He attends church. At church, he participates as an usher where he helps collect offering. Adam has tapped the drums or tambourine during the church service. He will sing or play the drum with his family when they travel to different churches to perform at church services and other musical events. Adam goes bowling weekly with a group of other developmentally disabled peers of all ages. Adam has been receiving services from Julie Ott for two years. A portion of these services have been provided in the Ott home. Adam is able to receive one-on-one care and attention. Julie is a trained teacher. Adam is able to learn the trade of gardening on the Ott's vegetable farm. This trade has the biggest long term employment potential for Adam. Most importantly, for the first time in Adam's life, he has a normally developed peer as a friend and role model. The Ott's youngest child, who is 17 years old, interacts with Adam. He is teaching Adam how to interact appropriately. Adam's language has grown because he has a normally developed peer that talks to him. Adam uses one to two</p>	<p>DHHS Divisions of Medicaid and Long-Term Care and Developmental Disabilities agree with your expressed philosophy about the design of home and community-based revises and importance of personal plans to help achieve individual goals. Thank you for sharing your son's story and goals, which reflect a great deal of effort and care. Comments regarding the individual service plan were forwarded to the assigned services coordinator.</p>	No	The comment was not related to the contents of the State Transition Plan, but related to the individual's use of CLDS services.

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	<p>appropriately. Adam's language has grown because he has a normally developed peer that talks to him. Adam uses one to two word utterances. It is important to increase the words that Adam uses in his vocabulary. The Ott's youngest child has been a role model for Adam when Adam is in public. Adam wants to model his behavior after his friend. Following are HIS and OUR (his parents and legal guardians) goals for him, and how these goals are being met in the Ott's home and in the community:</p> <p>Goal: Physical Activity to Maintain Health Agenda: Twice a week Adam will go to the YMCA of Holdrege to swim, lift weights, play basketball and walk. Daily he will participate in yard work (sweeping, raking, picking up sticks, shoveling snow, blowing leaves) He will swim, under adult supervision, during warm weather at the Ott home. Adam will participate in sports with the Ott's children, under adult supervision. Goal: Work Skills to Prepare Adam for future Employment Possibilities Agenda: Adam will learn to increase his time on-task by doing the following activities and increasing his daily time: sweeping inside and out and vacuuming. Our goal is that Adam will learn gardening so that he can have his own garden and sell his produce at the weekly Farmer's Market in his home town. The Ott's teach him how to plant the seeds, water the plants, weeding and harvesting the produce. They have a variety of produce in their garden. This will allow him to learn and get hands on experience. Adam already has strengths in technology skills. He enjoys taking videos and pictures with cameras and phones. The Otts are working with him on building his videography capabilities. We hope that this will allow him to assist the local school district in videoing sports activities. Adam has assisted with baseball, basketball and football games since he was seven years old. He has been an assistant student manager for all these athletic events. He continues this role in his local school. His responsibilities include getting out the equipment and sitting on the sideline with the team. Adam has volunteered at the local theater by picking up trash and vacuuming following the movie. The local theater board will be contacted to inquire if this can be a scheduled volunteer opportunity. All positions at the local theater are voluntary. Goal: Improving Daily Living Skills Agenda: Adam will work on toilet training; both urination and bowel movements. He will also work on personal hygiene – (instructions from Julie and opportunities to practice) Activities will include: bathing himself, grooming, and brushing his teeth.</p> <p>Adam will prepare light meals with close supervision and assistance. He will engage in shopping trips for groceries or personal items where he will learn making wise choices, money management, and learning how to pay. Adam will practice bringing the items home and learning how/where to put them away. He will practice setting the table, clearing the table, and stacking the dishwasher.</p> <p>Adam will practice time management skills by writing on his calendar upcoming events and preparing for them. Ott's have Adam keep a weekly calendar. Adam practices his handwriting everyday by copying simple sentences in his own handwriting book by the Ott's. This daily practice keeps his handwriting legible and works on his fine motor skills.</p>			

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	<p>Goal: Recreational Skills to Prepare Adam for Appropriate Socializing and Emotional Health            Agenda: Adam will attend the YMCA twice a week.            Adam will attend church every Sunday where he participates as an usher, collects offering, and participates in musical performances.            Adam will assist the local high school sports teams by serving as the student manager. He will assist with equipment and clean up.            Adam will bowl every week with other developmental disabled peers.            He will assist the local theater with clean up after the movie on a scheduled basis.            The Ott home has been the perfect learning environment for Adam during these last two years of his life. He is respected, encouraged, taught well, and kept very active and learning. He is taken into the community often to acquire the aforementioned skills. He has a best friend in their son, Jacob, who is a wonderful and kind peer model for him. He is truly loved.            These programs were created to find the best possible environment for each individual in the program. This home is that place for Adam: warm and inviting, clean, always brimming with loads of activities, ideas, learning and love.... inside and out. This home is special, in that it is both nurturing and challenging for him.            We have been told that this arrangement will no longer be allowed by this program, but that his caregiver COULD come to our home daily to care for him. Enrichment in anyone's life does not involve staying within the confines of your own home, but involves getting out and learning to cope in a different environment. Being able to relate to other adults outside the safety of your home environment is important, as we all know. This home not only gives Adam a work environment, but a school environment as well. It is both stimulating and challenging. It is important to us that Adam has this opportunity to get up, get ready, and go into this positive and engaging atmosphere everyday.            At this stage in his life, Adam has not yet reached the place where he could work independently in a workplace without considerable oversight by a close assistant. This would NOT be where he would thrive or be comfortable for an extended period of time. This is NOT sustainable with his level of ability, nor is it what HE wants. Therefore, we see this situation as the ideal one for Adam as he continues to learn these skills.            Here, Adam is receiving the best assistance and training to help him reach his goals for life.            The DHHS's local service coordinator who oversees Adam, has thoroughly looked into this daily arrangement, which has been working perfectly for Adam for the past two years. She agrees 100 % that this situation is the ideal location for Adam to thrive. She knows every detail about the pro-provider, location and services being given. We believe that she is the "eyes and ears" of the DHHS department, and her opinion should be respected, and highly valued for that which she has been trained</p>			

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	<p>care of the DHS department, and her opinion should be respected, and highly valued for that which she has been trained.</p> <p>We are asking that this and other situations like Adam's be given an exception to the "One Size Fits All" thinking of this fine program. It has been working perfectly in accomplishing the goals this program was created to be.</p> <p>Adam could be sent to a workshop everyday, sanding woodworking crafts. He could then live his evening hours and weekends in a care provider's home, through Mosaic's program, called "Host Home Settings". These care providers would receive pay for these hours that Adam would be spending in their home. There are many providers currently in this situation receiving pay for care given in their own home. These are tax payers' dollars, and we ask, "Why would this be deemed acceptable and the fine care given in our situation not?" We also believe that anyone sent to a workshop (that is also being funded by tax payers' dollars) is not receiving, even closely, the care, attention, and quality training that Adam is receiving from his current care provider.</p> <p>We ask that you carefully and fully consider our comments, and allow this situation to be included in your Home and Community based services program. We look forward to hearing back from you soon.</p>			

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19	<p>10/15/2014</p> <p>Subject: NHCA Comments on Nebraska’s HCBS Transition Plan Thank you for the opportunity to comment on the draft Medicaid Home and Community-Based Services (HCBS) Transition plan developed by the Nebraska Department of Health and Human Services (DHHS). The Nebraska Health Care Association (NHCA) understands this transition plan describes the process by which Nebraska will ensure services included in its HCBS waivers meet the community-like expectations set forth by the Center for Medicare and Medicaid Services (CMS).</p> <p>NHCA is a not-for-profit trade association representing more than 500 skilled nursing facilities, assisted living facilities, and hospice agencies that provide a continuum of long-term care services to more than 20,000 Nebraskans each day. It appears Nebraska was visionary in its development of assisted living. Over the years, stakeholder commitment to a social model of service delivery means Nebraska’s assisted living facilities continue to be structured around consumer choice and autonomy. The rights of assisted living residents are set forth in regulation and include their right to “self-direct activities, participate in decisions which incorporate independence, individuality, privacy and dignity and make decisions about care and treatment.” [175 NAC 4-006.04]</p> <p>NHCA respectfully offers the attached suggested changes to the Aged and Disabled Medicaid Waiver regulations [480 NAC5] and the following recommendations: 1) NHCA recommends DHHS not preemptively conclude the following types of facilities and services are “not HCBS,” based solely on their physical location</p> <p>NHCA does not believe the facilities and services in this category can automatically be assumed to isolate individuals from the broader community. In fact, they serve a critical function in meeting the needs of Nebraska’s consumers.</p> <p>NHCA respectfully suggests that it would not be appropriate to determine an entire category of settings is not in compliance with the new HCBS rule without individual analysis. The federal regulations repeatedly emphasize a true HCBS setting is one that offers consumers opportunities for community engagement and choice, helps ensure they are treated with dignity and respect, and protects their privacy and autonomy. NHCA concurs with CMS that these aspects are of far more importance to consumers than the physical location of the place they have chosen as their home. a. Facilities and services immediately adjacent to or on the grounds of a public inpatient facility</p> <p>DHHS supported the development of these home and community-based facilities and services in rural communities a number of years ago by offering financial incentives for the establishment of alternatives to nursing facility care. As a result, Nebraska has several small city or county-owned assisted living facilities that were created in response to consumer demand and effectively increased the supply of community-based services for rural consumers. Often these settings are located within a residential neighborhood or adjacent to a school or church, which helps facilitate the active integration of residents into community activities. If these services were eliminated, it would force older Nebraskans to travel or move many miles from their</p>	<p>Physical location alone will not be the determining factor in whether a setting has the Home and Community Based Services (HCBS) qualities defined by the Centers for Medicare and Medicaid Services (CMS). This determination will be made based upon site-specific assessment results, review of provider-level transition plans. In addition, for settings matching CMS criteria for requiring heightened scrutiny, the determination will also be based upon an evidence package presented to CMS by the state. The evidence package will include information submitted by the provider, input from the public and other information the State may provide demonstrating that the setting meets the qualities for being home and community-based and does not have the qualities of an institution.</p> <p>CMS has defined the criteria for settings which require heightened scrutiny, and the State does not have flexibility to alter these criteria. For settings meeting CMS criteria for heightened scrutiny, CMS makes the determination regarding whether settings possess HCBS qualities. For settings not meeting CMS criteria for heightened scrutiny, the State makes the determination regarding whether settings possess HCBS qualities. Settings meeting an of the following criteria must be subject to the heightened scrutiny process: 1) in a publicly or privately-owned facility that provides inpatient institutional treatment; 2) on the grounds of, or immediately adjacent to, a public institution; or that have the effect isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS. The State intends to support providers subject to heightened scrutiny through the process.</p> <p>Please see the response to comment #15 above regarding residential</p>	No	The HCBS final rule establishes qualities required for HCBS settings and the criteria for settings subject to heightened scrutiny. The State must abide by this federal regulation.

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	<p>activities. If these services were eliminated, it would force older Nebraskans to travel or move many miles from their hometowns in order to receive the services they need.</p> <p>b. Specialized facilities and services located on grounds of a privately-operated inpatient facility DHHS supported the development of inpatient and home and community-based facilities and services to meet a specific consumer need for specialized traumatic brain injury (TBI) services. The co-location of the continuum of TBI services allows consumers easy access to the professional staff and the specialized services they need and helps them gain the skills necessary to transition to the broader community. The co-location also means consumers can easily and quickly move between levels of care as their needs change or in the event of an emergency. c. Secure facilities and services As the incidence of Alzheimer’s disease and other dementia continues to increase, there is an increasing need for a continuum of long-term care services to meet varying consumer needs. There are times when a consumer with a mild cognitive impairment can be safely served in an unsecure assisted living facility, with a minimal amount of assistance. More often the individual requires a secure living area to ensure their safety, so they do not endanger their health or well-being during those times when they experience confusion. Without the ability to provide a secure perimeter to a memory care unit, facilities would not be able to safely admit or retain residents at risk for wandering or who are physically healthy and mobile, but lack the cognitive ability to know when they are in danger.</p> <p>d. Multiple facilities co-located and operationally related For the same reasons outlined above, these facilities should not automatically be assumed to not be HCBS based solely on their co-location. Often these co-located facilities offer more opportunities for consumers to engage with the broader communities because of their access to additional transportation, staff and financial resources. In Nebraska, these co-located facilities can also include independent housing, which again enhances the opportunities for interaction with the broader community. These co-located facilities also offer an option for spouses to remain in close proximity, should they need different levels of care. 2) NHCA recommends DHHS offer stakeholders opportunities for collaborative involvement throughout the transition process and assist providers to comply with the new rules NHCA recommends DHHS create a small, streamlined and focused workgroup, which could be quickly assembled and composed of assisted living representatives, Medicaid Waiver policy staff, and resource developers to work on very specific tasks, such as development of (1) an assisted living facility self-survey, (2) HCBS requirement assessment tool, (3) educational resources, and (4) technical assistance and informal appeal processes to help facilities comply with the new rules. A self-survey could serve as an educational tool for providers. Providing robust technical assistance would help facilities identify possible changes they could implement prior to the assessment process. It would also be helpful to establish an informal appeal process</p>	<p>Please see the response to comment #13 above regarding residential facilities specializing in care of persons with dementia.</p> <p>The Divisions of Medicaid and Long-Term Care (M-LTC) and Developmental Disabilities (DD) will make available technical assistance resources and continue to engage providers and provider associations throughout the transition process.</p> <p>The Nebraska Department of Health and Human Services (DHHS) may not establish a process to allow Medicaid Waiver participants who choose to continue to reside in an assisted living facility that is determined unable to comply with HCBS final rule requirements by March 2019. Medicaid waiver funds may not be used to pay for waiver services in not yet meeting HCBS characteristics settings after March 2019. The State Transition Plan includes a process for relocating individuals to alternate compliant settings.</p>		

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	<p>for providers who disagree with a “non-HCBS” determination to submit additional information demonstrating their compliance. Additionally, a workable timeline is crucial to allow providers time to make changes, if necessary, and allow consumers to remain in their home. 3) NHCA recommends DHHS establish a process to allow Medicaid Waiver participants who choose to continue to reside in an assisted living facility that is determined to no longer meet HCBS criteria to be grandfathered in their current setting during the five-year transition period</p> <p>NHCA recommends DHHS consider this option as a way to allow consumers to remain in their current assisted living facility if their individual conditions indicate moving from the current setting would reasonably pose a risk to their physical or psychological well-being. This would be a way to prevent or lessen the negative impact a sudden involuntary move can have on vulnerable consumers, most often referred to as “transfer trauma” or “relocation stress.”</p> <p>Addendum</p> <p>The attached Addendum includes NHCA’s suggested changes to the Aged and Disabled Medicaid Waiver regulations, which would incorporate the consumer’s individualized Plan of Services and Supports into the consumer’s Resident Service Agreement, as an Addendum, and ensure copies are provided to each involved party. The suggested changes would also incorporate the new HCBS requirements into Nebraska’s Aged and Disabled Medicaid Waiver regulations and reference the rights of assisted living residents already protected under Nebraska’s licensure regulations, which are very similar to those identified in the new federal regulations. [42 CFR 441.301(c)(4)]</p>				
20	10/15/2014	I received notice by my social worker, Amit Theis that I am to express my views on the Waiver Services. I have been a resident of the Assisted living at Midwest Conenant Home in Stromsburg for hour plus years now. I am very appreciative of their services. If it wasn't for that I could not afford to be here and receive the wonder case I am getting. Thank you	Thank you for your comments.	No	This comment offered support of Home and Community Based Services (HCBS)received in an specific setting, rather than a comment regarding plan content

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21	<p>10/15/2014</p> <p>This past weekend October 10<sup>th</sup>-12<sup>th</sup> of 2014, People First of Nebraska had their annual conference in Kearney. One of the breakout sessions for the conference focused on the impending changes to Home and Community Based Services that will impact all waivers the state of Nebraska has under Medicaid. This breakout session included examining how existing services are delivered. Pasted below is a chart developed to reflect the comments from the people in attendance. Group Home - 12, Extended Family Home-10, Assisted Living - 6, Own Home - 9, Living with Parents/Family - 0, Team Support: 1 No 3 Yes, Choice of Roommate 2 No 0 Yes, Able to Decorate Room 1 No 20 Yes, Visitors Anytime 9 No 3 yes, Key to Your Room 0 No 28 Yes, Key to your house 0 No 0 Yes, Food of Your Choice 0 No 18 Yes 13, Access to Food 18 No 13 Yes Do you live in an inclusive community with people with disabilities 2 No 8 Yes, Do you have a housing lease and other legal documents? 9 No 10 Yes. Had a lease only for the first year living in the apartment, then became a month to month tenant. Also one person stated that there is a lack of transportation and that hinders a lot of his lifestyle choices. Support staff are verbally abusive and sometimes it is perceived that the abuse is directed towards the person. Individual rents a room from another individual who does own the home. The renter is required by the owner to provide 24 hour notice prior to having any visitors. I am just forwarding these.</p> <p>Based on the conversations and comments from this breakout session at the convention, it becomes clear that the state needs to be certain to incorporate the voice of individuals receiving services into the transition planning, implementation and into the quality improvement process to insure optimal quality, oversight and transparency. If we rely only on providers and staff (serving individuals and DHHS staff) to report, evaluate and provide oversight, we miss out on hearing directly from the individual receiving the services.</p> <p>We would encourage DHHS to work with the disability community to educate Nebraskans about what Home and Community Based Services are, how they are being changed under the new HCBS rule and also prior to any waiver amendment or renewal. Individuals receiving services and organizations supporting them know where there are gaps and barriers. We need to work together to improve and eliminate these and make certain that our system incorporates choice, participation, and independence into all aspects of home and community based services.</p> <p>Thank you for allowing us to provide comments on this very important issue. Home and Community Based Services are an integral part of community access.</p>	<p>It is agreed that the voices of individuals receiving services provide important input for transition planning, implementation and quality improvement processes. It is also agreed that working together to improve the service delivery system supports choice, participation and independence in Home and Community-Based Services (HCBS). The State Transition Plan (STP) includes continued engagement of stakeholders, including People First Nebraska, throughout the transition period. throughout the transition period. The HCBS State Transition website will be updated throughout the transition period with additional opportunities for education.</p>	No	<p>The plan has added narrative to make emphasize and stakeholder engagement activities more apparent; however, the initial plan did include these activities.</p>

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22	10/15/2014	<p>RE: Nebraska's Draft Transition Plan for Home &amp; Community Based Services The Nebraska HCBS Coalition is composed of a broad and diverse group of stakeholders representing aging, physical and developmental disabilities, traumatic brain injuries, mental health, independent living, self-advocates and other groups who are interested in Medicaid long-term services and supports within the community. The HCBS Coalition was formed as one means to address the new CMS regulations redefining HCBS but also to acknowledge the recent incorporation of the federal Aging, Independent Living and Intellectual and Developmental Disabilities offices into the Administration for Community Living.</p> <p>The Nebraska HCBS Coalition would like to thank the Department of Health and Human Services staff for meeting with us and for your extensive work on the Draft Transition Plan for Home and Community Based Services. We appreciate that the Department is now offering four face-to-face meetings with stakeholders in locations across the state per suggestions from advocacy agencies. We would also like to acknowledge that the Department has had to respond to many federal requirements in this process and appreciate the efforts that have been made to address these. To that end, the HCBS Coalition would like to offer our members as a resource to the Department as we would like to have involvement as the Department works to support these processes, for example identifying and creating plans to address settings and procedures found out of compliance with the Center for Medicare and Medicaid's new rules and the quality improvement process.</p> <p>In addition, we propose the following considerations related to the state's HCBS transition plan:</p> <ul style="list-style-type: none"> <li>• Provide the final transition plan written in a more easy to understand format including a summary narrative for each Waiver. In addition, alternative formats need to be provided such as in braille or an audio recording insuring true stakeholder engagement.</li> <li>• Provide additional details in the final plan on the settings that the Department currently believes does not fit the new regulations for home and community based settings in the final plan.</li> <li>• Hold public hearings to detail the settings, processes and providers that need heightened scrutiny. Take public comments for 30 days and provide the methods that the state will be undertaking to assist these providers/settings to come into compliance.</li> <li>• Replace the language "community-like" with "home and community based" (making the document more consistent with CMS' language) in the final transition plan submission to CMS. Using consistent language helps to set high expectations and insures that the next administration will use the same language for interpretation.</li> <li>• Identify and detail the personnel, methods and processes currently in place for the "quality improvement process" in the final transition plan. The quality improvement process needs to have conflict-free, on-site evaluation with transparency and process in place so that individuals in services and staff know the process to report concerns.</li> <li>• Incorporate the HCBS Coalition into the quality improvement process and adopt the National Core Indicators to assess the</li> </ul>	Yes	The updated plan content and format addresses questions in this comment.

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	<p>Incorporate the HCBS Coalition into the quality improvement process and adopt the National Core Indicators to assess the outcomes of services to individuals and families.</p> <ul style="list-style-type: none"> <li>• Post all stakeholder comments on Nebraska DHHS' website on the same page as HCBS Transition Plan.</li> <li>• As a standard practice moving forward, post upcoming waiver amendments and/or renewal applications on the same page on the HCBS Transition Plan website; assuring optimal transparency and acknowledging stakeholder input is vital to the successful implementation of these processes.</li> <li>• Identify and notify key advocacy organizations, for example via the HCBS coalition membership, regarding waiver renewal applications or amendments; this is equally critical to a transparent and efficient process.</li> </ul> <p>Again, we greatly appreciate the Department's significant work on this draft plan and would like to again state that the HCBS Coalition's members stand ready to serve as a resource to you through this process. Please contact Kathy Hoell, Executive Director of the Nebraska Statewide Independent Living Council (NE SILC) with future communications and she will forward these to the HCBS Coalition members.</p>			

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23	<p>10/15/2015</p> <p>Disability Rights Nebraska is the designated Protection and Advocacy organization for people with disabilities in Nebraska. We appreciate this opportunity to comment on the proposed transition plan for home and community-based waivers in Nebraska. It is difficult to gather a clear conceptualization of how the state plans to proceed to accomplish transition. The format of the Nebraska plan is not easy to read and it is difficult to gain a full understanding of the transition process or goals. California and Oregon, for example, have produced 12-page and 14-page transition plans, respectively, that describe their plans in a narrative format. Nebraska's plan is simply a 70-page spreadsheet work plan. Reading the matrix, while helpful for department staff when deciding what tasks will be assigned to achieve a set of benchmarks, is not "user-friendly" when trying to help the public, service recipients, or stakeholders to understand what the goals are and how Nebraska plans to accomplish those goals. The overall goals of the federal regulations are known as are the minute details of tasks, schedule, and actors involved in the matrix, but what is missing is a narrative description of how the details create the path to transition.</p> <p>Furthermore, in the September 5, 2014 "Statewide Transition Plan Toolkit for Alignment with the Home and Community-Based Services (HCBS) Final Regulation's Setting Requirements", CMS has stated<sup>1</sup> (emphasis added):</p> <p>"What does CMS expect to see in a Statewide Transition Plan? Presence of the following items will facilitate CMS review of the states' submitted plans:</p> <ul style="list-style-type: none"> <li>• A detailed description of the state's assessment of compliance with the home and community-based settings requirements and a statement of the outcome of that assessment. A detailed description of the remedial actions the state will use to assure full compliance with the home and community-based settings requirements, including timelines, milestones and monitoring process.</li> <li>• When relocation of beneficiaries is part of the state's remedial strategy, the Statewide Transition Plan should include: <ul style="list-style-type: none"> <li>o An assurance that the state will provide reasonable notice to beneficiaries and due process to these individuals;</li> <li>o A description of the timeline for the relocation process;</li> <li>o The number of beneficiaries impacted; and</li> <li>o A description of the state's process to assure that beneficiaries, through the person-centered planning process, are given the opportunity, the information, and the supports to make an informed choice of an alternate setting that aligns, or will align, with the regulation, and that critical services/supports are in place in advance of the individual's transition."</li> </ul> </li> </ul> <p>We do not believe there is enough explanation or description in the proposed transition plan for Nebraska. The lack of description will have a direct impact on how well the public, service recipients (and their families), stakeholders, and perhaps key staff (such as service coordinators) understand the new federal rule and how to apply the rule to individual situations. The proposed transition plan includes data and performance metrics, for example page 2 of the TBI waiver matrix (page 30 of 70 of the comprehensive draft transition plan), but there is scant description about what data will be collected (or how it will be</p>	<p>The updated plan format is intended to provide information addressing what The Centers for Medicare and Medicaid Services (CMS) and stakeholders expect to see. Additional comments regarding the updated plan format are welcome.</p>	<p>Yes</p>	<p>The updated plan content and format addresses questions in this comment.</p>

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	<p>70 of the comprehensive draft transition plan), but there is scant description about what data will be collected (or how it will be collected) and little identified public, recipient (and family), or other stakeholder input into the types of data the state will collect.</p> <p>Educating the public, and especially those individuals receiving services, about the new federal regulations is critical to achieve the goals set forth by the regulations, to ensure accountability, and to receive high quality public and stakeholder input. Public and stakeholder input has been recognized as an integral part of making the new regulations effective and accountable. However, the paucity of description will have a direct impact on the quantity and quality of public, stakeholder, and service recipient (and family) input.</p> <p>It is our belief that not enough attention has been paid to educating stakeholders, providers, and service recipients (and families) about the nature of the new federal rule (let alone the transition plan), how it will impact service recipients and providers, and the process by which the rule will be implemented (e.g., facility assessment process and appeals, who is performing assessments, data collection, etc.). Stakeholders have basically been forced to educate themselves. This has been compounded by multiple versions of the proposed rule creating confusion among stakeholders.</p> <p>Additionally, the proposed transition plan mentions stakeholder engagement and public/stakeholder outreach, but there is little description regarding how this will be achieved and what opportunities will be available for input regarding segments of the transition plan implementation. We would suggest that the transition plan include and clarify more opportunities (at all stages) for the relevant state departments to reach out and educate providers, service recipients and families if applicable or appropriate, advocacy groups or stakeholders and the public about the transition plan; the pertinent federal regulations regarding any particular waiver; what initiatives are planned to implement the transition; how the public, service recipients (and family), and other stakeholders can participate and support the transition process; and how far the state is along in meeting its benchmarks.</p> <p>We note that in Oregon’s transition plan<sup>2</sup>, attention is directed at educating all relevant stakeholders. Pages 6-8 of the Oregon plan describe activities the state will perform to educate individuals and families, service providers, and service delivery staff (e.g., case managers, service coordinators, etc.) independently about the requirements of the new rule and person-centered planning. The Oregon plan also describes the planned development and dissemination of educational materials for and to each of these groups. Nebraska’s proposed transition matrix lacks clarity in this regard. Since much of the responsibility for compliance monitoring will fall upon service coordinators (especially when assessing continuous compliance), it is imperative that the proposed transition plan include a description of educational activities for key system staff. Additionally, we feel the transition plan would benefit from some definitional clarification. For example, what is the meaning of “privacy”? How is that</p>			

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	<p>measured and assessed, using what criteria? Lack of definition can lead to erroneous assessments and unaccountability. The transition plan does not provide much context to the work plan matrix. In particular, the Transition Plan Addendum’s explanation of the major requirements of home and community-based settings of the Aged and Disabled Waiver (A&amp;D Waiver) and the Traumatic Brain Injury Waiver (see pp. 26-28 of 70 in the draft plan) overly simplifies some of (and omits others) the final rule’s criteria on residential settings deemed community-based<sup>3</sup>. We are also submitting a copy of the final rule’s description of what defines a setting as community-based with these comments. It is much more specific and comprehensive than what is described in the Transition Plan Addendum for the A&amp;D waiver and Traumatic Brain Injury Waiver.</p> <p>The proposed transition plan recognizes there will be settings which will be presumed not to meet the new federal rule standards. The proposed transition plan indicates the preferred course is to submit evidence to CMS for the “heightened scrutiny” process, rather than work collaboratively to change these settings so that they can be in compliance. Nebraska should identify these settings specifically, conduct site visits to the settings and include assessment input from people who live, work, and receive services in those settings. It is unclear from reading the matrix how assessments of certain requirements (e.g., location adjacent to an institution, provider compliance) will be handled and by whom. We would suggest that there be independent compliance monitoring of facilities under the auspices of the new federal rule. This independent monitoring should utilize the input of providers, service recipients and family members, and other stakeholders to ensure that there is an accurate and accountable assessment of facility and service provider compliance. Service coordinators will be mainly responsible for ongoing compliance monitoring, which only serves to strengthen the need to educate staff about compliance requirements under the federal rule. The high turnover rate for service coordinators makes continuous education imperative. We would also suggest that Nebraska include in the transition plan opportunities to train families, individuals, advocacy organizations and staff working in community programs in values-based philosophy. The federal rule and values-based philosophy are congruent. We feel this opportunity would provide educational values and strengthen understanding of the purpose of the new rules. We suggest that a place to incorporate a values-based orientation is the training and other practices identified on page 18 of the Comprehensive Matrix:</p> <p>“Routinely review and revise Service Coordination hiring tools, orientation, training curriculum, monitoring tools and other supports to ensure a continued focus on person centered practices, recognition of and advocacy for individual rights, and ensuring that all individuals are supported in the most integrated settings possible”.</p> <p>A values-based orientation reinforces the stated outcomes of the routine review above:</p> <p>“Service coordinators have the skills and tools to facilitate planning that reflects individual needs and preferences and conduct plan monitoring to ensure individual rights, optimize independence, facilitate choice and maximize opportunities to access</p>			

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	<p>plan monitoring to ensure individual rights, optimize independence, facilitate choice and maximize opportunities to access community and receive services in the most integrated setting”.</p> <p>Disability Rights Nebraska has developed programs to provide values-based education and training. We would be happy to discuss opportunities to work with appropriate agencies to incorporate a values-based training into the review and orientation process noted above.</p> <p>The new federal regulations have created an opportunity to realize a cultural shift in the way home and community services are provided in Nebraska. The new federal regulations are a step in the right direction and we are willing to collaborate, in the capacity that we can, to help advance a better way for Nebraskans with disabilities.</p>			
24	<p>10/15/2014</p> <p>I would like to thank you all for your hard work in preparing the State for this transition process. As an employee of a waiver service provider in the State of Nebraska, I appreciate the goals of CMS to ensure that individuals receiving waiver services are receiving those services in a non-restrictive, community setting. My comment pertains to what is considered a community setting. I just wanted to say that I appreciate the fact that, as you say on your Transition web page: “In response to comments received during the rule making process, CMS moved away from defining these settings based on specific characteristics. The final rule requires that “community-like” settings be defined by the nature and quality of the experiences of the individual receiving services and applies to both residential and day services settings.”</p> <p>I fully support this shift from looking only at the physical characteristics of a facility or environment to instead evaluating the nature and quality of experience of the individual who is receiving services. Some of our most specialized and most sought after waiver services (the TBI waiver for example) are provided in settings that may not reside strictly in a traditional neighborhood community; however the TBI waiver provides an invaluable resource to our State. If we have providers who are meeting a clear need, who are making every effort to ensure the privacy and independence of their clients, and who have happy and satisfied clients and families, I can’t see how it could be in anyone’s best interest to consider removing those settings as waiver options when our State already struggles at times to provide enough appropriate housing and support for individuals with disabilities.</p>	<p>The updated plan format is intended to provide information addressing what the Centers for Medicare and Medicaid Services (CMS) and stakeholders expect to see. Additional comments regarding the updated plan format are welcome.</p>	No	<p>The comment expressed appreciation for the goals of the HCBS final rule settings requirements, rather than thoughts regarding plan content.</p>

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25	10/15/2014	A good clean beautiful home like place I think would be very effective in in the critical state of recovery. And I would also like to see them put in washers and dryers do it yourself laundry. And on weekends make brownies. And a Place to go outside. I'm one if I don't get out to the country side once in a while I don't do so well. My mom noticed something in my voice and asked, Do we need to go somewhere? I asked what do you mean? Well the country side. I would not expect to be driven to the country side but just to help you understand that the outdoor time is important to me too. And doctors not evaluating people on Sunday's a religious holy day Sabithday unless the behavior is to odd to ignore. It doesn't add to the terror a person goes through as they recover. So basically I love and agree to a more homelike setting I think you have a good plan.	No	The comment is support of HCBS final rule requirements rather than thoughts regarding plan content.
26	10/7/2014	My name is Mary Angus I represent Adapt Nebraska and my first comment is and it may be my only comment that we cannot comment on a plan for a plan. We cannot provide intelligent comments on a plan we have not seen. It's a matrix. In fact it has not been written make comments on a plan that has not been written. We cannot comment on a nonexistent plan.	Yes	The updated plan is presented in a more user-friendly format.
27	10/7/2014	Hi Julie Kaminski leading age Nebraska and I guess I have several comments and my hope would be they would help craft the plan so the fact we don't have a plan isn't as concerning to me. As hopefully the comments we share can be used as you craft the plan. You mentioned that you think Nebraska is different from any other state so I think being able to take into account some of those unique pieces and one of them would be memory care units and it's going to be very challenging for memory care in the assisted living setting to have those locked doors and the resident to have a key. So that is one of our concerns I think as you craft the plan to address that. A couple other pieces are how you're going to define community integration and full access to the greater community. So those are very specific in CMS's requirements and I guess we would like greater clarification around that as to how an assisted living meets that criteria. You know I know that many of them will bring individuals into the assisted living setting and you know how are you going to define that I guess would be helpful. Another piece would be the land lord tenant laws and how those will integrate with the existing discharge and grievance processed that are in the assisted living regulations because I believe that's a piece of the CMS ruling is the land lord tenant laws. So knowing how those are going to mesh together would be helpful as you create that plan. Umm...Seems like there was one more. Choice of roommate, that's another piece especially in the memory care units. We always try to give that piece but I think especially in the memory care units choose of roommate might be one and then many of our rural members their assisted living is connected to the nursing home and I know when they defined those residential settings they said they can't share activity space and they can't share dining space and unfortunately there are some small rural assisted living locations that is the case so I think keeping those things in mind while you create the plan. I think that's it.	No	The requirements for settings in the plan follow CMS requirements, and while more clearly explained in the updated plan, the requirements for settings are unchanged.
28	10/7/2014	I am Kate with Research and Development with the Eastern Nebraska Office on Aging and my comment is when it talks about resident participation for the informal activities in the communities going shopping, church, or lunch and friends are the facilities going to be expected to pay for this transportation for these other activities that they are going to because it can be a challenge already with them providing the required medical transportation. That would be a real concern to me also and that that would be taken care of. Thank you.	No	This comment was a request for clarification regarding responsibilities of assisted living providers, rather than a comment regarding plan content.

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29	10/7/2014	<p>Janelle Cox with the Eastern Nebraska Office on Aging, aged waiver. I wanted to expand a little bit on what Julie brought up about community integration and I think another piece we need to keep in mind especially in assisted living is that we do have family and informal supports that are there to provide that community integration piece typically those things happen on the weekend where residents aren't going to want to participate in activities throughout the week. They rest. They save their energy for family time during the weekend and get that community integration piece which you know in the assisted living and the documentation that may not always be noted where a resident is going and how they are spending their time with their informal supports so we want to make sure we keep that in mind. With the memory care units and the assisted living units I feel very strongly that we need to advocate for that in Nebraska. In working with folks with dementia in seeing the difference between the nursing facility setting and the assisted living setting, those are day and night and folks that are in that early sometimes moderate state of dementia if they are placed in that nursing facility setting they want out. And we need to be able to provide safe alternatives. I believe and think that's what the waiver was set up for. And I think that in providing evidence we need to use CMS's own verbiage back to them because some of things in the very beginning of this program we were insuring folk's health, safety, and welfare and we need to be able to do that for those folks with dementia that can have a lesser restrictive environment. But we have to be able to keep them safe. Along with the choice of roommate this would be a welcome site for the aging population where sometimes the dementia units get limited because of that fact that we don't have an established relationship. I guess I see it on the flip side, I see it as a good thing for us because a lot of times folks will be able to live very in a room that maybe didn't have a long standing relationship at that point in time and we see the adverse effects when you uproot a dementia client from a familiar setting and place them somewhere else. So I think in that sense we could actually see this as a place to make some progress.</p>	No	<p>Thank you for your comments regarding activities, memory care and assisted living.</p> <p>This comment offered support of HCBS final rule settings requirements as an opportunity for progress, rather than commenting on plan content.</p>

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30	<p>My name is Michael Chittenden I am the executive director of ARC of Nebraska I serve on the Governors DD Advisory Committee. My first comment is that in concern is we had a change in venue for today and I don't feel there was adequate notice given for that. Secondly as I tried to find my way to find the building there was no signage anywhere outside of the building to show where this was to take place so people with cognitive disabilities might have a hard time finding this area. In which to give comments so we might have a very representative field of people providing comments today. As to the plan, and I use that term vaguely because I think that is the key to this plan. It's Vague. It talks about community like not community based. And if we are going to really offer services with disabilities or aged or whatever we really need to community based. Having access to community is not being in and participating in and being in the life of the community. The second comment to the plan would be like it as already put out there by some other people it's a matrix not a plan. People with cognitive disabilities would have a very hard time understanding it. I would like to think of myself as not having any cognitive disabilities, I have a hard time understanding it. So the plan needs to be more concrete. It needs to have better timelines that are currently projected they are not realistic at all. With the Plan CMS talked about being able to assess and pass heightened scrutiny. Who's doing the assessment? Where's the transparency in that? Who is being represented through that assessment process in particular people that are being served through these waivers? Are they part of the assessments and their families, and their advocates and their representatives? Where's the transparency when the assessments are done? Where are they posted? How is that information being processed and put out into the general public and how are we taking comments on a continual basis. Because any plan that is put out there needs to be constantly updated and redefined. I also have a big issue with the State of Nebraska self-policing its self-heightened scrutiny. This is a state that continually lacks an Olmstead plan and because of that there is no heightened scrutiny available that we can see. We would like heightened scrutiny to come from not only CMS but through stakeholders throughout that state. Finally antidotal evidence presented to the ARC of Nebraska, it shows that realistically currently and proposed person centered planning is not being used. It's planning to fit the services that are being offered not services that are being offered to for fill needs. I've even heard the statement "if you don't go to a day program you don't get services" and that's not appropriate. If we are going to be person centered plan those plans need to be built around the needs of the individuals and not around the services being offered. Thank you.</p>	<p>The updated plan format is intended to provide information in a more user-friendly and transparent format, and the plan uses the Centers for Medicare and Medicaid Services (CMS) terminology, i.e. home and community-based versus "community-like." Additional comments regarding the updated plan format are welcome.</p> <p>The Home and Community-Based Services (HCBS) State Transition website includes settings assessment resources and will be updated throughout the transition period. The Divisions of Medicaid and Long-Term Care (M-LTC) and Developmental Disabilities (DD) will identify a process for review of heightened scrutiny information.</p> <p>It is agreed that person-centered plans need to be built around the needs of individuals.</p>	Yes	<p>The plan format has been changed to include more narrative and the HCBS State Transition site information expanded. A milestone for identifying process and persons involved in review of heightened scrutiny settings information has been added to the plan.</p>

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31	10/7/2014	<p>I am Janine Brooks. I usually come to these things. My daughter is 28 years and she has a primary diagnosis of autism and a secondary diagnosis of ADHD and a ??? disorder. For the last eight years under Medicaid waiver long term care and disabled, which is what she has been on since she is not eligible for DD services because her autism wasn't diagnosed before age 29 or age 18 and because she is not eligible for PASS. This is what has been offered to her. That or a recommendation by Dr. Adams to go to jail. Umm it is not person based. My person is a prisoner in her own home. She is not allowed to participate in her own treatment. She asks for certain services such as an appropriate day services, she is denied that. I believe this plan including the waiver program summary including the transition plan addendum is grossly missing a major segment of our population adults with autism. Since we do not offer an autism waiver under this program which is what our adult autistic individuals are put on if they are living in the home or married. This is what they are offered. We need to offer them options allow them access to places where they can get things like the opportunity to gain skills. The opportunity the gain cognitive skills to maybe move further on their own. Programs in Omaha currently do not offer those. I have letters I would like to submit as well as my summary comments that show why they won't take anyone with autism in these programs. I'm not saying we need an autism but I am saying we need to modify this plan to include that segment of the population.</p>	Thank you for your comments.	No	This comment expressed request for services targeted to adults with autism, rather than plan content.
32	10/7/2014	<p>I have another comment. It's not in the plan but it has to do with the individuals on this plan that may have difficulties advocating for themselves. So if they don't have someone like a family member or a legal guardian overseeing their care. They are pretty much not being taken care of. I know this from others I take care. I would like to see in addition to this, is somebody these people have an option to talk to besides the case manager. Magellan has an advocate that you can all and talk to about your issues with the programs. I ask why none of the Medicaid waivers have this option. It should be something that is very clear. If you have cognitive issues it is very difficult to figure out what to start doing. I am also a representative a network of advocates in the state and I'm also the niece a in a woman in an assisted living setting. I'm not sure if she is on the A&amp;D waiver but she is on a Pace program so I'm also reflecting that family caregiver role. And I have another one but I need to be in a memory unit (LONG PAUSE). I remember my other comment. I'm sorry. I knew what the building was and the room was. I had difficulty finding it. I live about a mile away. I had difficulty finding it and there was absolutely no signage had there been one on Sorenson. There was NOTHING. I went down to the other place. There was no signage. I live here a mile away and I could not find it. (Voice responding unable to hear)</p>	<p>Thank you for your comments. Individuals who have difficulty advocating for themselves may appoint an authorized representative to participate in service planning and to assist with program issues. Services coordinators are the initial point of contact for questions and concerns. If assistance is needed beyond what a services coordinator may provide, individuals may also contact program staff within the Divisions of Medicaid and Long-Term Care or Developmental Disabilities for further information. Natural supports may be developed by the service planning team and providers also may provide information to the services coordinator. Advocacy groups also may be a resource.</p>	No	This comment posed questions about resources for individuals with difficulty advocating for themselves, rather than about plan content.
33	10/7/2014	<p>Your true stakeholders have cognitive disabilities a map is not going to help. Signs, arrows, they need directions you know you really need to think who your customer is not necessarily you advocates or other stakeholders. You really have to go to that person who is you base consumer and make sure they know. My name is Mike Chittenden and I approve this message.</p>	Thank you for your comments and suggestions.	No	This comment offered suggestions for signs and arrows to direct individuals with cognitive disabilities to meeting locations, rather than for plan content.
34	10/7/2014	<p>My name is Sara Swanson. Has the state considered using the National Core indicators for quality assessments in all the programs? They have some great survey tools for families, individuals, and providers and I see that there is like the majority of the states in the United States are using this standard. So I would consider looking into that.</p>	<p>The Division of Developmental Disabilities has decided to implement National Core Indicators. The Division of Medicaid and Long-Term Care will evaluate future use of National Core Indicators for Aging and Disability.</p>	Yes	The STP includes consideration of use of National Core Indicators or another nationally-recognize survey of individual experience.

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35	10/7/2014	My name is Mary Angus and I remember the comment. Well it's a question. I want to know when the transcripts or the comments, these hearings and the states response which will all be sent to CMS. I want to know when they will be on the website for the public to view. I have never seen that done before and that is the only way to be transparent for the comments from across that state and the responses to those comments be available on the website.	The updated State Transition Plan will include a summary of comments. Individual comments with responses will be posted on the website.	No	The comment pertained to posting individual comments and responses for the public, rather than plan content.
36	10/7/2014	This is Mary Angus, maybe for the first time I don't remember. I was wondering if you have the provider self-assessment tool. The date for completion was 9/30/2014.	Site assessment tools are posted on the Nebraska Home and Community-Based Services (HCBS) State Transition website at <a href="http://dhhs.ne.gov/Pages/hcs.aspx">http://dhhs.ne.gov/Pages/hcs.aspx</a> .	No	This comment was a request for the provider self-assessment tool, rather than for plan content.
37	10/7/2014	I should also comment I am a graduate student in English Composition in English Lit and this documentation that presented here today is horrid. It's very difficult for someone for cognitive disabilities to read. That is part of the reason my daughter did not come today. It was so spread out she couldn't make heads or tails about what she should be talking about. The plan is not outlined in a way that is favorable. I want to take it a step further and say the website the plan comes from is in very poor taste as well. Yesterday I was talking to someone from long term care disabled services because my daughter needs additional help right now she cannot access. Which goes to show how personal care is involved because she has been needing this care for over a year. We have adult protective services investigating me because she's not on medication and she's not receiving appropriate services. But this is what she is offered as a solution. On the website it will tell you, you can go to a day program if you have emotional, mental, or physical issues. In Omaha, even though Lincoln doesn't seem to be fully aware of it, the only two programs you can access on Medicaid waiver are community alliance and friendship program both which require a mental health diagnosis and if you don't have one you are screwed. My daughter is not able to access the autism center of Nebraska she is not able to access Ollie Web. She is not able to access Angel Guardians. Those are all very good programs in the state or city of Omaha that have very positive results. But they are all DD funded. I want to know if we are going Person services why don't we treat them like individuals and look at their individual needs. The other comment I have to make has to do with my neighborhood. I've been in my neighborhood for 27 years. It's supposed to be community based care. That would mean I would think that not only is the care in of my child, my adult child, but also for myself, her care, the people coming into our home, and the people that live around the home. My daughter has gone out numerous times flashing knives at little kids threatening to kill herself. She can't go to a residential treatment center because her level of care are to high for someone like Emanuel or Lasting Hope to handle. So she is sent back home for me to take care of and the only support I have with the Medicaid waiver is transportation and also her being able to have a ??? in the home. So why can't sure obtain services that she needs to allow her to live as the plan suggests as independently as possible. In the summary thing that they have the transition plan setting requirements for home and community based services on page two in the summary it states if there are opportunities to seek employment in work in competitive settings and to engage in community life, control personal resources, participate in the community just as people who live in the community do. Presently, as far as I know Medicaid refuses to offer any job opportunity for those on the aged and disabled waiver plan. I was told yesterday that that is not the responsibility of what the aged and disabled waiver is about. Also in regards to these some concerns I have a concern in regards to her quality of work. If she is not able to get out to work to gain those skills to work how can she ever achieve it. For some of these program connections vocational rehab. To get into their programs to go to a day program she has to have a job first. How can one get a job if they don't have the skills for it. If we are going to have person based, person centered care a person needs to be directly	The updated plan is provided in a narrative format and is intended to be easier to read. Nebraska Medicaid is working to continually improve information provided on its HCBS State Transition website, and additional comments are welcome. The Aged and Disabled Waiver program does not include a service providing assistance with employment; however individuals on the Aged and Disabled Waiver may be referred to Vocational Rehabilitation for assistance with employment.	Yes	The updated plan format is changed to make it easier to read and understand.

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	<p>job if they don't have the skills for it. If we are going to have person-based, person-centered care a person needs to be directly involved. And we need to look for options when we are not able to provide that care for them whether it's Medicaid waiver, DD, or Behavioral Health. In the definition of who they serve they mention adults between the ages of 18 and 65 with physical disabilities but they do not mention adults with other types of disabilities that would probably be cognitive and mental disabilities on Medicaid and Long Term Care. This is not specified in the new plan. Thank you.</p>			
38	<p>10/7/2014</p> <p>Kate with Eastern Nebraska Office on Aging. So we have time to work with our facilities because I do have the fear which I shared with Gwen in past about some of the animosity we may get just due to the functioning of their facilities to get some of this done. The facilities I worked in, in Northeast Nebraska, I've worked in 41 facilities. I know the rural I know the metro area here. They are doing a lot of these things but not all of them and I could see very valid concerns with some of the requirements. We just want to make sure there is patience and understanding and support with the aging programs and the DD programs with helping and working with these programs so it goes forward and does not, is not detrimental to the individuals we serve now. The time frame can be very scary and cause challenges</p>	<p>Settings providing Home and Community-Based (HCB) waiver services have until March 2019 to transition to compliance with the final rule requirements. The Divisions of Medicaid and Long-Term Care (M-TLC) and Developmental Disabilities (DD) will make available technical assistance for providers transitioning to compliance. For settings that do not comply by March 2019, the State assures in the updated plan that reasonable notice, due process and information and supports will be provided to individuals who need to find alternate compliant settings and services. In addition, the State assures in the updated plan that services and supports needed will be in place at the time of any relocation.</p>	Yes	<p>The updated plan explains the timeline for overall compliance, the intent to make available technical assistance for providers and assurance that needed services and supports would be in place at the time of any relocation.</p>

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39	9/29/2014	<p>My name is Tim Koly K-O-L-V as in Victor. I am the executive director and CEO of the KFDE foundation of Disability education. One the things that troubles me about the language of the plan is the reference to Community like because it present a gray area. CMS regulations aren't quite distinct about making the same as making a difference between in that which is and that which is not. So using the term community like presents doubt. Assisted living in regulations, CMS is saying they cannot be attached or in adjacent to a nursing home and be an HCBS services. Now that so, I realize that community like is not going to be changed the language of CMS documents. There needs to be a very clear distinction. I hope the methods being used to make those decisions are followed. There needs to be a clear distinction as to what is and what is not an HCBS service. Another area I am concerned about is the DD Community there is problem with Day services in Nebraska for persons with developmental disabilities. There is a problem in that we currently have a DD waiting list and it is a very big list. That cannot get services so there is going to be a "trickle down" service for those people rather direct immediate services that is available direct with the other waivers. I think that's it.</p>	Yes	<p>The updated plan format is changed to use CMS terminology.</p>
40	9/29/2014	<p>The updated plan includes the Centers for Medicare and Medicaid Services (CMS) terminology, i.e. home and community based qualities or characteristics, rather than community-like. The state is applying CMS criteria that specify the following settings are "presumed to have the qualities of an institution": 1) any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; 2) any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution; or 3) any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS. The State's interpretation of "facility that provides inpatient institutional treatment" in the first criteria includes facilities providing 24-hour acute level of care treatment. Physical location alone does not determine compliance; rather it is the extent to which the setting has the qualities of home and community-based service setting or the qualities of an institution. For settings meeting CMS criteria for presumptively institutional, CMS requires a heightened scrutiny process and more information to determine if the setting has qualities of home and community-based services or an institution. The Division of Developmental Disabilities (DDD) is taking proactive steps to improve access to service and management of the waiting list, e.g. reorganization of staff responsibilities and expansion of services coordination services.</p>	No	<p>The Division of Developmental Disabilities provides a complaint form accessible at <a href="http://dhhs.ne.gov/developmental_disabilities/Pages/ADDIF-Community.aspx">http://dhhs.ne.gov/developmental_disabilities/Pages/ADDIF-Community.aspx</a>. Individuals or their advocates may also call 1 (877) 667-6266 to express concerns or complaints.</p> <p>This comment was a request for information about how to express concerns, rather than input for plan content.</p>

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41	9/29/2014	I have a question. Can you tell me about cooking in assisted living... I'm sorry I'm Linda Zinnell and have in assisted living. And one of your comments was they are going to be allowed to cook in their room. I wanted to voice a concern that they need to be able to determine the safety of them cooking in their room per individual bases and they have permission to do that.	No	This comment expressed concern about individual safety within a setting, rather than input for plan content.
42	9/29/2014	We rent both buildings separately and one is skilled and one is assisted living. I guess that bothers me a little bit. The regulations say not adjacent or attached. To Tim's comment, we have residents there that there only there we give 3 meals a day and activities to daily living themselves. We limit to them a setting where there just for that we limit a lot of people. Not everybody in our assisted living are not able to that for themselves. Assisted living people who need 3 square meals a day and give medications on time because at home they weren't getting that.	No	CMS requirements and the transition plan are consistent with the comment.
43	9/29/2014	My concern I guess what my concern is we're talking about where were from we have a group facility. I know a lot of them aren't from group facilities. Ok, we're in a different situation we have individuals that have been taken out of the group homes and now live with family members or whatever and they're in the community based program where they are out in the community. Who is it who decided what their activities out in the community are? Are you saying that should be the person in the program the individual on what they want to do like she said go to dances and stuff like that? Who determines that? An like we have social workers going no you need to do this with them, you need to do that with them or you need to that. What if the individual doesn't want to do that and certain disability situations you can't everybody to a dance. They might not enjoy that or you may have a person that can't have shots and the people at that dance is a hepatitis carrier so they can't go do those activities. Who determines the activity based for the community based waiver and what they should be doing out in the community? On the Medicaid waiver for assisted living I know there are a lot of facilities no longer doing that care. Has the state done any surveys or projections as to how many more assisted facilities are going to take less there won't be any availability for any of them to be in the assisted living under the Medicaid waiver program.	No	The comment asked about how activities an individual participates in are determined and about participation of assisted living facilities in the HCBS program, rather than providing input for the plan content.

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44	9/30/2014	<p>I have a comment similar to Linda's. I want to go on the record of stating that assisted living fulfills a crucial niche in our care in our services to totally think they are not in line I don't believe is accurate and I don't think is fair to the facility. Just because they are hooked on to a nursing home does not mean they don't have the philosophy that they have a separate staff maybe it's their adjacent through a door that it's available if you have a 911 or emergency call that they don't have to run across the parking lot to get there. I think their interpretation is going to be really important and being able to justify it on a piece of paper, but I agree what Linda what they said back here about working with what we have because if those go away there are a lot of people. I'm an RN I worked home health hospice, home infusion those home based services, we just can't do without that huge piece of the care delivery system or we are hosed. Where will these people go? They don't have family so in my experience in our assisted living they have a better social life than I do. They have a bingo comes in and they have birthday parties and they have cards. I think that is over and above the call of duty. They don't have to truck in the freezing cold to church because the church ladies bring birthday cake and pass out presents for everybody who had a birthday in sept. I think writing it in the plan and justifying and showing the rationale as to why we do that is really important. It also makes me another comment on that I have with nursing homes and nursing facilities they have surveyors who come in and spot check and make sure they are in compliance. I'm assuming maybe a really strong assumption that in the case where for example in the assisted living is an outlier. I would like to see them have a surveyor go in and see how they do comply because I think a lot of them can comply even if they are a hook on facility. I think the definition is faulty, but we're stuck with that definition. So, you made a very salient point that what is the interpretation of that definition and I think they should meet the definition.</p>	No	The comment expressed the importance of the role of assisted living facilities and asked about the relationship between physical location and compliance. It
45	9/29/2014	Jane Ludlow. My question is the home providers and the day service and home services. With these choices where to go and what to do becomes a problem with transportation. Are these waivers going to provide funds for the transportation of these people. Because transportation the costs are higher and higher and you have to have drivers and supervision and things. My question will that provide any financial transportation support?	No	The comment was about availability and funding of transportation, rather than plan content.
46	9/28/2014	I was just going to point as well, my name is Sarah Briggs. That for the A & D waiver for example they talk about identifying the distinguishing in the likely not settings by March 31 <sup>st</sup> of 2015. So, I think it will be interesting to for the providers and everybody to understand what will that process be for making that distinguish between the likely not and likely in and how do those lists get made? Because it says the outcome will be a list.	No	The comment was about interest in the process and results of site assessments, rather than input for plan content.

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47	9/30/2014	<p>Again, in the same day service or residential setting you have people who have different function, brain functions levels. You may have someone who is very high brain functioning that can do a lot of things on their own and you may have one that's not. And so, what she is saying if they have to go in 2 different directions, how are you going to get them there because the one that is not high functioning is going to need supervision to be able to be out in the community doing what they want to do. And so they're talking about these community based services, but you're going to run in a lot of issues in the community group homes. These people in the community doing something they all want to do at the same time if you only have 2 staff people and 4-5 clients who want to go into different settings and I think that's when you are going to run into the situations. That goes back to. That's not an issue for me because I'm in a single based situation with the person I work with, but then we're going back to the boundaries of sometimes you're talking the assisted living, sometimes you're talking about is this the waiver just to do with assisted living facilities and group homes. What about the residential home how is it effecting a person that lives at home with a guardian. This whole waiver. Does the social worker at that point have a right to say well I don't think this community based waiver no I have think you should take him to the library. Well, what if he doesn't like going to the library? But he can't talk, but we know what know what he likes to do by his actions obviously as a worker that takes him places you know what they like and what they don't. Why are we restricting it you need to do this when obviously they don't like that. I mean that's what I'm asking, Who do you speak to as to where those guidelines are? Who do you address those questions when the social worker says, I don't know but I think you should be writing this because my supervisor says you know they should be doing this. Where do we address those questions?</p>	No	The comment was about development of service plans and who questions about services may be directed to, rather than plan content.
48	9/29/2014	<p>To answer your question it's written very broadly for a reason. It's a good good thing that we now write it broadly. The only stipulation is the safety end of it. So it's common sense. Whatever the person centered plan says. It seems like your SC and your team doesn't understand Person Centered Planning. If they actually said "they're going to go to the Library" that is wrong wrong wrong. You pick up the phone and you call Jodi Fenner, she's the head of DD. They only know in Lincoln what we tell them. My son is 42 years old and he has a very good life. You know why? Because a service provider said to me "the squeaky wheel gets greased first" I have never forgotten that, and don't any of you that advocate for people forget that. I used to be a part of the Governor's Advisory Council. If you go on the DD State Site you can find a listing of the people on the DD council. They meet every three months. You just can't sit out here and whine. You have to speak. I'm very adamant about person centered planning and I bet you will be too now. I just go to the top. Start at the top, she'll listen.</p>	No	The comment was about how to resolve questions and issues regarding care plans, rather than plan content.

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49	<p>1/7/2016</p> <p>I have a few questions about a letter I received this Friday, 1.22.16, without any attachments:</p> <ul style="list-style-type: none"> <li>• Is there a timeframe in which I should expect to hear from DHHS? In which I should expect to complete the assessment?</li> <li>• Will the assessment be scheduled or unscheduled?</li> <li>• How long do you expect the assessment to take?</li> <li>• Are there sample questions? (The letter refers to attachments but nothing was included in the mailing I received)</li> <li>• How will you notify providers about the public meetings?</li> <li>• How will you notify a provider that is determined not to meet requirements?</li> <li>• Have you received additional guidance from CMS on handling memory care issues like locking doors? If so, can you share it?</li> </ul>	<p>Contracted community agencies completed on-site assessment of assisted living settings in the first quarter of 2016. The assessment tool used is available on the State Transition Plan website. A letter with a summary of results was mailed to providers with preliminary results.</p> <p>Settings with locked doors where individuals have either codes or keys are permissible, however only individuals who would be compromised by going into the community without assistance may have limitations and such limitations should be per a person-centered service plan.</p>	No	The response addresses the question and did not require a change in the plan.
50	<p>1/25/2016</p> <p>I have not received a response to my inquiry yet. I did get some questions answered through LeadingAge Nebraska, but the following remain:</p> <ul style="list-style-type: none"> <li>• How will you notify providers about the public meetings?</li> <li>• How will you notify a provider that is determined not to meet requirements?</li> <li>• Have you received additional guidance from CMS on handling memory care issues like locking doors? If so, can you share it?</li> </ul>	<p>Public notices of meetings were posted on our State Transition Plan website, in local newspapers, and information was available for review at locate area League and AAA offices. Please see the response to question 49.</p>	No	The response addresses the question and did not require a change in the plan.
51	<p>3/28/2016</p> <p>I want to makes sure the plan lists "home and community based services" instead of "community like."</p>	<p>The current draft of the State Transition Plan ( STP) consistently uses the term "home and community based services." The term community like does not occur in the current draft. At this time there is no intention of using the term community like.</p>	No	No change is needed in the current draft of the STP as the term community like does not appear. DHHS opted to use the term "home and community based services."
52	<p>3/28/2016</p> <p>We all understand what it means to have a rental agreement. Most places to live require a 30 day notice or 360 day lease when talking about a legally enforceable lease. What are the responsibilities of the renters? What happens when someone is half way through a year lease and they want to move. I would like more discussion on that.</p>	<p>The Centers for Medicare and Medicaid Services (CMS) has clarified that all provider-owed or controlled home and community based setting are to ensure that the individuals served have a lease or other legally enforceable agreement providing similar protections. The specific language as well as duration and clauses for breaking the lease would be negotiable for individuals receiving Home and Community- Based Services (HCBS) the same as those who are not.</p>	No	The response addresses the question and did not require a change in the plan.

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53	3/28/2016	Will there be public input on heightened scrutiny? What will it look like? Will people just get a list of all of the locations that have heightened scrutiny and they will send in comments or will there be individual meetings?	Yes	The plan is updated to include a milestone for providing state-level guidance on heightened scrutiny, including public input.
54	3/28/2016	On Page 16. Why does it say "Day Habilitation-Prevocational Workshop". Why is this not just called Day Habilitation-Prevocational.	No	No change made to the plan.
55	3/28/2016	Follow-up email from Public Meeting: I just wanted to make sure that the old language "Home and Community Like Services (HCLS)" was now replaced by "Home and Community Based Services (HCBS)." The former word "Like" created a doubt about whether some providers would actually be providing true home and community-based services or something that only looked like it. For example, it could be said that a facility (e.g. a nursing home) certainly has a community of people who are being served in a city and since a city constitutes a community of citizens, it could be said that such a placement (i.e. a city) could constitute a community "like" service.	No	Please see question 51.
56	4/7/2016	Hello. This is Maryann Verson ( <i>spelling?</i> ). I have a brother who is in Region V, in their program. I understand that the State of Nebraska, I mean the Federal government is pushing for cliental to be out in the community all the time. He is 70 years of age and doing something all the time and sometimes going all the time is tiring. I think that going all the times is not natural. I think the people that should be making these decisions are the personnel that are caring for these people not the federal government. I am not the kind of person that likes to be involved in everything. Sometimes I love to stay home and I'm sure there are clients that feel the same, that would love to stay home and not be dragged out daily on tour of the county. Just wanted you to know. Thank you very much. Bye Bye. <i>No phone number provided.</i>	No	No change made to the plan.

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57	4/11/2016	Will CMS do on-site visits?		
		For settings meeting the criteria for presumptively institutional, The Centers for Medicare and Medicaid Services (CMS) will review information submitted and determine if it is sufficient to overcome the presumption of institutional or isolating qualities. If regulatory requirements are met, the setting will be determined to be home and community based. If not all requirements are met and the setting is in the State's transition plan, the state may use the remaining transition period to bring the setting into compliance. If CMS has further questions, CMS may conduct a site visit.		
58	4/11/2016	Will legally enforceable lease agreements be needed in Extended Family Home arrangements?	No	No change made to the plan.
		The Centers for Medicare and Medicaid Services (CMS) has clarified that all provider-owned or controlled home and community based setting are to ensure that the individuals served have a lease or other legally enforceable agreement providing similar protections.		
59	4/11/2016	What happens to the places that will not comply? Is there a chance that they will close?	No	The response addresses the question and did not require a change in the plan.
		The state and provider have until March 2019 to bring the setting into compliance with the rule. If a setting is not in compliance by March 2019, Nebraska Medicaid will no longer be able to fund those services using the Home and Community- Based Services (HCBS) waiver dollars. Any providers deemed not in compliance in March 2019 will need to make a business decision regarding the impact and next steps.		
60	4/11/2016	The Assisted Living that are not utilizing waiver services there is a concern to be listed as non-compliant.	Yes	The plan is updated to explain that certain settings not currently in compliance have indicated they are opting not to offer provider-level transition plans.
		Providers not currently in compliance may indicate that they opt not to offer provider-level transition plans. If this is the case, the setting would be determined unable to comply effective March 2019.		
61	4/11/2016	In a provider-owned residential setting what qualifies as choice of roommate? Do they need to choose from a roommate and housemate? Or is there a difference?	No	No change to the plan.
		The Centers for Medicare and Medicaid Services (CMS) provided guidance in this area by stating that the individual's choice of roommate must be documented in the person-centered plan. The person-centered plan documents how choice was provided to and exercised by the individual. Conflicts should be addressed if they occur and mediation strategies should be available to address concerns. CMS did not directly identify a difference between roommates or housemates. Based on the spirit of the Home and Community- Based Services (HCBS) Final Rule in regard to person centered planning, The Nebraska Department of Health and Human Services (DHHS) is interpreting housemates and roommates as the same.		

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62	4/11/2016	What will the evidence packet contain?	Please see the response to question 53.	Yes Please see question 53.
63	4/11/2016	AL's were encouraged and received \$ to create Assisted Living from some NF and this is now why they are connected. It would be a tragedy if people would have to now move some 30 miles away from their home.	The Nursing Facility Conversion Cash Fund, established in 1998 by LB1070, provided grants for nursing facilities to convert existing nursing facility beds to assisted living and other alternatives to nursing facility care such as respite and adult day care. Regardless of a setting's participation in this program, all settings must meeting requirements for home and community based services per the Centers for Medicare and Medicaid Services (CMS) Home and Community-Based Services (HCBS) Final Rule, published in 2014. The State will support providers not in compliance with the rule in transitioning to compliance, and it is anticipated that providers who desire to do so and take steps needed in their provider-level transition plans, will be able to be in compliance by March of 2019.	No The response addresses the question and did not require a change in the plan.
64	4/11/2016	What does the evidence package look like/have in it?	Please see the response to question 53.	Yes Please see question 53.

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65	<p>4/25/2016</p> <p>Thank you for meeting to discuss NHCA’s concerns regarding Nebraska Department of Health NHCA has revised our initial comment letter to include the new information discussed at our meeting, as well as additional suggestions on Nebraska’s State Transition Plan. Please accept this letter as a replacement of the former.</p> <p>NHCA is the only state trade association representing the majority of proprietary and non-profit assisted living and nursing facilities throughout the state. Many of NHCA’s members provide assisted living, adult day, and/or respite services under the Aged and Disabled and Traumatic Brain Injury Medicaid Waiver programs.</p> <p>CATEGORIZATION OF HCBS SETTINGS DHHS’ preliminary survey of HCBS settings resulted in their assignment to the following categories:</p> <p>Group A – Settings that fully comply;</p> <p>Group B – Settings that do not comply but could with modifications;</p> <p>Group C – Presumptively institutional in nature; and</p> <p>Group D – Settings that cannot comply.</p> <p>Group A: NHCA is pleased the vast majority of Nebraska’s assisted living facilities and adult day services settings were determined to be in compliance with the new HCBS rules. From its origin, Nebraska’s Aged and Disabled Waiver was designed to maximize and support participant independence, privacy, choice and decision-making.</p> <p>Group B: Based on conversations with NHCA’s assisted living members, NHCA recommends this category be renamed “Settings in the process of meeting the new HCBS requirements.” It is NHCA’s understanding these settings have several months to make necessary modifications, such as installing locks on residents’ doors. This is an expense that must be budgeted in advance and cannot occur immediately. NHCA feels there should be recognition given to facilities willing to take on an additional unfunded expense for the benefit of its residents. Group C: NHCA recommends this category be renamed “Settings that are adjacent to or on the grounds of a publicly-owned nursing facility or hospital or that offer memory care.” “Institutional in nature” has a negative connotation and does not accurately describe Nebraska’s facilities. The suggested term is more understandable and less alarming for consumers.</p> <p>PUBLIC INSTITUTION “Public institution” has been interpreted to mean a publicly-owned nursing facility or hospital. As a result, if an assisted living facility is nearby a publicly owned nursing facility or hospital, there has been a presumption the assisted living facility is “institutional in nature.” NHCA’s legal counsel reviewed relevant federal statutory and regulatory use of the term, “public institution” and offers the attached analysis, indicating a publicly-owned nursing facility or hospital does not appear to meet the federal criteria of a “public institution” and therefore, a nearby assisted living facility would not need to</p>	<p>Based upon questions submitted during public comment, the State intends to conduct validation assessments throughout the remainder of 2016 prior to categorizing settings according to their level of compliance.</p> <p>Physical location alone does not determine a setting’s level of compliance, and a setting may be both in the process of working toward compliance and at the same time meet The Centers for Medicare and Medicaid Services (CMS) criteria for heightened scrutiny (e.g., on the grounds of or adjacent to a publicly-owned facility). The revised plan clarifies this, indicating that a setting may meet CMS first two criteria for “presumptively institutional,” and be at any level of compliance (fully compliant, partially compliant with plans to transition to full compliance, or non-compliant).</p> <p>In its' guidance "Questions and Answers Regarding Home and Community-Based Settings," CMS answers the question "What does CMS consider a public institution? Is a privately owned nursing facility a public setting?" CMS' answer is "For purposes of this regulation, a public institution is an inpatient facility that is financed and operated by a county, state, municipality, or other unit of government. A privately-owned nursing facility is not a public institution."</p> <p>Please see the response to question 49 regarding locked doors in settings providing care for individuals with dementia.</p> <p>Please see the response to question 63 regarding the Nursing Facility Conversion Cash Fund.</p>	Yes	<p>The plan is updated to reflect validation assessments prior to categorizing settings' level of compliance. The plan is updated to explain that certain settings not currently in compliance have indicated they are opting not to offer provider-level transition plans.</p>

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	<p>not appear to meet the federal criteria of a “public institution,” and therefore, a nearby assisted living facility would not need to be “presumed institutional in nature.”</p> <p>LOCKED UNITS NHCA thinks there may have been a misuse of the term “locked unit,” in reference to assisted living facility memory care. Many memory care units have delayed egress exits in order to protect the safety of residents. To exit, pressure is applied to the door and it opens after a 15- second delay. There may also be a keypad on either side of the exit-entry point. In these situations, the code is often posted near the keypad. For individuals with cognitive challenges, this makes it more difficult to exit, but does not prevent it. NHCA recommends any assisted living facility assigned to Group B, C or D because it has a “locked unit” be reassessed to determine if it is possible to exit.</p> <p>NURSING FACILITY CONVERSION PROGRAM Nebraska has several small city and county owned nursing facilities, mainly located in Nebraska’s rural and frontier counties. In some geographic regions, the nursing facility is the only health care provider available for miles. In 1997, Medicaid put together a task force and spent two years traveling the state and assessing Nebraska’s long-term care needs and service gaps. One result of this study was an innovative program offering Medicaid-funded grants to nursing facilities willing to convert a portion of their beds to assisted living. This successful program was designed to offer a community-based alternative to nursing facility care. Many of our state’s city and county owned nursing facilities took advantage of this program to remodel a portion of their nursing facility or construct a new building and license it as an assisted living facility. If it is impossible for them to meet the new HCBS requirements, it means the only Medicaid-funded option for Nebraskans residing in these rural and frontier counties will be a nursing facility.</p> <p>Group D: It is NHCA’s understanding “Group D” consists of Waiver-certified assisted living facility and adult day service providers who informed DHHS they wished to terminate their Waiver participation. Listing these providers as “settings that cannot comply” seems inaccurate. NHCA recommends not including them on the list at all, as they are no longer Waiver providers.</p> <p>As we discussed, it is concerning the HCBS assessment criteria are so restrictive some providers decided it was impossible for them to participate in the Waiver program, meaning there will be fewer options for Nebraskans. For example, some NHCA members offer adult day services to a small number of Waiver participants in their communities, on an as-needed basis, to help them remain in their homes as long as possible. The loss of this community resource may hasten nursing facility admissions, which seems counter to the purpose of HCBS. It also seems there may have been an inconsistency in the statewide application of the assessment process, as some facilities possessing certain characteristics are labeled as noncompliant, while other facilities with the same characteristics are identified as fully compliant.</p> <p>Additionally, it appears some facilities may have been assigned to a category in error. For example, a facility received a letter from DHHS indicating it was not compliant because residents did not have a choice of meal times. However, this information was incorrect, according to the facility, the representative from the Area Agency on Aging who performed the assessment, and the resulting assessment document.</p> <p>NHCA would be glad to work with DHHS to review the facilities listed in Groups B, C and D to help ensure the assessment</p>			

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	<p>results are accurate and consistent.</p> <p><b>LANDLORD TENANT ACT</b> Federal HCBS rules require that residents of assisted living facilities have “protections similar to, or exceeding, the state’s landlord/tenant act.” NHCA’s legal counsel reviewed the relevant Nebraska statutory and regulatory requirements and offers the attached analysis, indicating assisted living resident service agreements offer greater protections than Nebraska’s Landlord Tenant Act.</p> <p><b>DEFICIENCIES</b> NHCA has a question about a statement found on page 28 of the State Transition Plan, “No formal deficiencies will be issued for HCBS settings standards until after October 1, 2018.” Nebraska’s licensure of assisted living facilities already includes an inspection/complaint investigation process to ensure providers’ compliance with established standards. Does Medicaid plan to implement a similar process in addition to the current one and, if so, what would be considered a “deficiency” and what are the proposed consequences?</p> <p><b>ASSESSING QUALITY</b> As the federal HCBS requirements emphasize the state’s responsibility to ensure Waiver participants are receiving quality care, NHCA recommends DHHS consider contracting with an outside entity having nationally-recognized expertise in this area, to implement a statewide resident satisfaction survey process for both nursing and assisted living facilities, using one consistent tool. NHCA appreciates the opportunity to submit these comments and looks forward to further discussion and collaboration.</p> <p>Sincerely, Heath G. Boddy, President and CEO (ATTACHMENTS OF Definitions Relating to Public Intuition or Institutional Status &amp; Nebraska's Landlord Tenant Act also included with Letter)</p>			

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66	4/25/2016 I wish the state would look at the screening and evaluation of high behavioral youth going into YRTC. There have been a lot of escapes lately. Are they being evaluated like they should be? There needs to be something done.	Our primary goal at the Youth Rehabilitation and Treatment Center-Kearney is to ensure the safety of youth, our staff and members of the Kearney community. Escapes are a concern and priority. Courts commit youth to the YRTC when they feel that community-based services are no longer an effective effort in their rehabilitation and treatment. The youth's court, probation and other information are considered in designing a youth's treatment program, in addition to the analysis of YRTC mental health and other staff. We are making a comprehensive review of the entire facility – treatment programs, behavioral health assessments, staff ratio, policies, housing, etc. – to identify why youth choose to escape. We will continue to address this issue to keep youth, staff and Kearney safe.	No	YRTC is not a facility under the Home and Community Based (HCBS) waiver. No change made to the plan.
67	4/25/2016 I am uncomfortable with no one over-seeing BSDC now that the Department of Justice is not. The state has not paid attention to BSDC for so long and they need to keep looking at them. The rate at BSDC is much higher than in the community.	Auditing responsibilities for the Beatrice State Developmental Center (BSDC) fall under The Nebraska Department of Health and Human Services Division of Public Health. In addition, BSDC abuse and neglect investigations are reviewed by Disability Rights Nebraska via reports submitted by BSDC on a weekly basis. BSDC also has a Quality Improvement (QI) Team and the Investigative Services Office (ISO) Team shared with the Nebraska Division of Developmental Disabilities (DDD)-Community Based services for additional checks and balances. Additionally the legislature has tasked the DDD with preparing a report for ongoing recommendations for BSDC which will also address the financial impact of the facility and the services provided.	No	No change made to the plan.
68	4/25/2016 Is the state actually replacing MMIS? What is the MMIS system? When will it be gone?	Nebraska's current Medicaid Management Information System (MMIS) performs all of the necessary functionality to process claims for the Nebraska Medicaid Program. The vision for Nebraska Medicaid and Long Term Care (M-LTC) is to transition the existing MMIS from a single system to multiple modular solutions where components are connected in an interoperable architecture. There will be a phased implementation of each modular component, and the date has not yet been established for when the current MMIS will be sunset.	No	The response addresses the question and did not require a change in the plan.

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69	4/25/2016	When is the DD waiting list going to be gone? It is a violation of Title 2 and the ADA which says there must be accessible services to individuals with disabilities. There is an Olmstead decision that should apply to Nebraska. There is no excuse for having a DD waiting list.		The Registry of Unmet Needs is being reviewed to increase the functionality of the waitlist for planning purposes. A stakeholder group meets to discuss practices and provide input to assist with further defining capacity and how to meet the needs of those requesting services across all service arrays. The Nebraska Department of Health and Human Services (DHHS) is actively communicating with the legislature and within the Division regarding Olmstead and the impact on Nebraskans.	The Home and Community Based Services (HCBS) waivers allow for both waitlists as well as reserved capacity for priority populations.
70	4/29/2016	I do not see the Quality Review Team mentioned in the Transition Plan. Per state statute 83-1213, the Quality Review Team must be making quarterly reports. The Quality Review team must be independent of any governmental agency or instrumentality or any specialized program. To our knowledge, this is currently not being done and is not a part of the transition plan. This needs to be addressed and made part of the plan.	No	The Quality Review Team (QRT) is required by statute. Although the QRT is not specifically mentioned in the State Transition Plan, the Division of Developmental Disabilities (DDD) does anticipate the QRT playing a role in ongoing verification of compliance with the Home and Community-Based Services (HCBS) rule. DDD will continue to work with individuals, parents/guardians and other stakeholders in identifying how the QRT can provide the most impact for individuals in services.	The QRT is not specifically addressed in the STP nor it is required by the STP.
71	4/30/2016	I am very concerned that Quality Review Teams are not addressed in the new DHHS State Plan. As a parent who uses Nebraska providers and knows the laws, it is in Nebraska law that citizens form a Quality Review Team to review Nebraska's DD providers. As a parent, these teams have been out of compliance for way too long. Parents have been unhappy with services and the state for the last several years. You are serving our children, who are our most precious daughters and sons. Many of them cannot communicate when things are not right. We have to see changes in behavior or physical marks in order to know things aren't right. Quality Review Teams shed another light and eyes on what is going on. I feel these need to be reinstated as they are the law. I realize all of the things your new management team need to rectify and Quality Review Teams are a must. Please reconsider and add them to your state plan.	No	See #70	The QRT is not specifically addressed in the STP nor it is required by the STP.
72	5/2/2016	I do not see the Quality Review Team mentioned in the Transition Plan. Per state statute 83-1213, the Quality Review Team must be making quarterly reports. The Quality Review team must be independent of any governmental agency or instrumentality or any specialized program. To our knowledge, this is currently not being done and is not a part of the transition plan. This needs to be addressed and made part of the plan.	No	See #70	The QRT is not specifically addressed in the STP nor it is required by the STP.
73	5/3/2016	I do not see the Quality Review Team mentioned in the Transition Plan. Per state statute 83-1213, the Quality Review Team must be making quarterly reports. The Quality Review team must be independent of any governmental agency or instrumentality or any specialized program. To our knowledge, this is currently not being done and is not a part of the transition plan. This needs to be addressed and made part of the plan.	No	See #70	The QRT is not specifically addressed in the STP nor it is required by the STP.

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74	4/25/2016	Why is CMS not playing fair between Public and Private institutions being looked at under Final Rule?	The State will follow the Centers for Medicare and Medicaid Services (CMS) criteria for identifying settings subject to heightened scrutiny, which include settings located in a public or private facility that provides inpatient, institutional treatment; and settings on the grounds of or adjacent to a public institution; and settings with the effecting of isolating individuals receiving Medicaid Home and Community-Based Services (HCBS) from the broader community of individuals not receiving HCBS. In reviewing public comment and other states' transition plan, Nebraska Medicaid identified this topic as an area where clarification is needed for stakeholders.	No Changes to the plan were not needed; however the State will address clarifications needed via an Answers to Commonly Asked Questions document on its State Transition Plan website.
75	4/25/2016	I am concerned about nursing homes being connected to assisted living facilities. It would be easy to just look at a person and move them over to the nursing home that is connected and not look at other community options.	Physical location alone will not be the sole factor determining if a setting is considered home and community-based per the Centers for Medicare and Medicaid (CMS) definition. This determination will be made based upon whether a setting demonstrates compliance with Home and Community Based Services (HCBS) qualities.	No The response addresses the question and did not require a change in the plan.
76	4/25/2016	Universal housing should be looked at by the state. You can go online or google it. It looks like an option.	Thank you for your comment regarding the benefit of universal design.	No While universal design is one option for reducing barriers and making environments usable by as many people as possible, it is not directly related to the requirements of the State Transition Plan.
77	4/25/2016	For locked doors, maybe a fire department could have a key to people's rooms as an alternative.	Thank you for your comment.	No No change to the plan was warranted as the availability of the fire department does not change requirements of the Home and Community Based Services (HCBS) Final Rule.
78	4/25/2016	Did CMS do a re-write of the rule earlier this year. The terminology changed where CMS backed away from "Home and Community like" language. This is what Courtney Miller said.	The Centers for Medicare and Medicaid Services (CMS) did not re-write the rule, but has provided additional guidance and answers to frequently asked questions regarding the rule.	No The response addresses the question and did not require a change in the plan.

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79	4/25/2016	Have you thought about having Courtney Miller go on the news to talk about HCBS rule or on TV somehow to educate people?	No	Thank you for the comment. As the process for the Centers for Medicare and Medicaid (CMS) Final Rule evolves, opportunities to engage with the public and share information will be evaluated. The Nebraska Department of Health and Human Services (DHHS) strives to be transparent and communicate across many avenues and will assess opportunities to do so in the future.	The response addresses the question and does not require a change in the plan.
80	4/25/2016	For lease agreements, Residential Service Agreements should cover leases as they are more detailed in what is expected than the Tenancy Act that is in statute.	No	A Residential Service Agreement which provides the protections in the required by the Home and Community-Based Services (HCBS) Final Rule would be considered compliant.	The response addresses the question and did not require a change in the plan.
81	4/25/2016	Recommendation to have more time for public input. There does not seem like a lot of time between when the notice was posted and when stakeholder meetings are taking place.	No	Thank you for your comment. The State will consider additional time for public input, beyond the Centers for Medicare and Medicaid Services ' (CMS) requirement for 30 days, for future public comment periods.	The response addresses the question and did not require a change in the plan.
82	4/25/2016	I would like to see better public input timeframes and hold meetings farther out to western Nebraska so small communities that have small Assisted Livings who want to learn and be part of the discussion can attend.	No	Thank you for your comment. For the current draft of the State Transition Plan, The Nebraska Department of Health and Human Services (DHHS) held seven in person public comment meetings as well as a statewide Live Webinar Stream on the NET website on 04/26/2016. Public comment notice opportunities were published on March 22nd, 2016. Additionally DHHS provided 30 full days for individuals to submit their comments via phone, email, fax or US Postal service if they were unable to participate in one of the public comment meetings.	The response addresses the question and did not require a change in the plan.
83	4/25/2016	I am very happy that the state is not posting results of site assessments quite yet. Also recommend using softer language as alternative to "presumed institutional". This has a negative connotation to facilities.	No	Thank you for your comment. In order to be transparent and communicate clearly The Nebraska Department of Health and Human Services (DHHS) used the language provided by the Centers for Medicare and Medicaid Services (CMS) in the State Transition Plan efforts wherever possible. The use of the term "presumed institutional" was not intended to be negative but to simply assist DHHS and our system partners in establishing common language which was consistent with CMS.	The response addresses the question and did not require a change in the plan.

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84.a	<p>4/25/2016</p> <p>The Nebraska HCBS Coalition is composed of a broad and diverse group of stakeholders representing aging, physical and developmental disabilities, traumatic brain injuries, mental health, independent living, self-advocates and other groups who are interested in Medicaid long-term services and supports within the community. The HCBS Coalition was formed as one means to address the new CMS regulations redefining HCBS but also to acknowledge the recent incorporation of the federal Aging, Independent Living and Intellectual and Developmental Disabilities offices into the Administration for Community Living. The HCBS Coalition has previously provided comment to Nebraska’s first transition plan. Members had concerns with the previous plan and recognize the significant work that went into this revised version as well as the Medicaid Waiver renewals. We would like to credit the Department for acknowledging Nebraska’s rich history in paving the way for home and community-based services and for incorporating the following changes from the previous plan:</p> <ul style="list-style-type: none"> <li>-Updating Nebraska’s transition plan to be written in a more understandable format.</li> <li>- Providing specific numbers in the transition plan on the settings that the Department currently believes does not fit the new regulations for home and community based settings.</li> <li>- Removing the language “community-like” as opposed to “home and community based” (making the document more consistent with CMS’ language) in the transition plan submission to CMS.</li> <li>- Posting all stakeholder comments on Nebraska DHHS’ website on the same page as HCBS Transition Plan.</li> <li>- Taking public comments for the current revised Transition Plan.</li> </ul> <p>The undersigned agencies and organizations would however, like the following items to be addressed and further clarification provided in the current transition plan:</p> <p>Rights and Protections:</p> <ul style="list-style-type: none"> <li>- Please provide more details about Nebraska’s Person-Centered Planning Process.</li> </ul> <ul style="list-style-type: none"> <li>o How does the state insure the quality of person-centered planning within all its Medicaid Waivers?</li> <li>- Is there a state training for the person-centered planning process for all services coordinators?</li> <li>- Is there a training for individuals in need of long-term services and supports?</li> <li>- A training for family members to understand the process and insure fidelity of it?</li> </ul>	<p>Nebraska’s Home and Community-Based Services (HCBS) Waivers’ person-centered planning process has been developed in accordance with CMS guidance received to date. Nebraska Medicaid will review its regulations for compliance with newer person-centered planning requirements under the HCBS Final Rule and provide guidance and training for services coordinators. The Nebraska Department of Health and Human Services (DHHS) Developmental Disabilities Service Coordinators do attend a three day training which includes person centered practice focus and concepts. Contracted service coordinators must complete and pass an online competency training module that includes person centered philosophy and concepts. Currently, there is not formal training for individuals in need of long term services and supports or family members. This is an area that will be reviewed as the state moves forward with reviewing processes and planning strategies.</p>	No	The response addresses the question and did not require a change in the plan.

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84.b 4/25/2016	<p>Please explain the process for an individual who may be receiving NE Medicaid Waiver services to report concerns of abuse or neglect without concerns of retaliation from the provider. (Is there a process for this to occur anonymously?)</p> <ul style="list-style-type: none"> <li>- We know that individuals with disabilities and children have a higher incidence of abuse and neglect. How does Nebraska Medicaid and DD Services collaborate with Adult Protective Services or Child Protective Services to insure that the rights of individual rights are protected?</li> <li>- Are CPS/APS calls tracked to see if there are recurrent calls to a specific Extended Family Home or Provider?</li> <li>- Are there processes in place to insure that individuals with Intellectual Disabilities are viewed as credible witnesses?</li> </ul>	<p>All service providers, and service coordination staff are considered mandatory reporters. A client could share their concerns with their service coordinator or directly contact the Nebraska Department of Health and Human Services Abuse and Neglect Hotline at 1-800-652-1999. The caller can request they remain anonymous. If the client fears for their safety they should contact their local police department immediately. Nebraska Medicaid Long Term Care (M-LTC) has ensured that all incidents of abuse or neglect are appropriately reported without violating any HIPAA regulations. Individuals who receive services funded through the Nebraska Division of Developmental Disabilities (DDD) are provided (at a minimum of one time yearly) information regarding their rights as well as information regarding how to report abuse or neglect. Each agency providing services funded through DDD has policies developed which are reviewed and approved by DDD staff regarding how individuals, guardians or other stakeholders can file an anonymous complaint. All reports of abuse and neglect received by APS or CPS regarding individuals served by a Developmental Disabilities Service provider are shared with the Public Health surveyors responsible for licensing and certifying DDD providers and facilities. Likewise, if Services Coordinator or a Public Surveyor receives a report of abuse or neglect that staff make a report to Adult Protective Services (APS)/Child Protective Services (CPS) as appropriate. APS and CPS maintain a data base of all calls and allegations of abuse and neglect. Information from previous reports is used as part of the assessment process when new allegations of abuse and neglect are reported. MLTC and DDD encourage the commenter to provide more information regarding the question about individuals with intellectual disabilities being viewed as credible witnesses.</p>	No	The response addresses the question and did not require a change in the plan.
84.c 4/25/2016	<p>Please explain how Nebraska's Human and Legal Rights Committees function.</p> <ul style="list-style-type: none"> <li>- Who trains Human and Legal Rights Committee members to insure understanding of and fidelity of their role in insuring the rights of individuals with disabilities?</li> </ul>	<p>In Nebraska all agencies who are funded through the Division of Developmental Disabilities must establish a Human and Legal rights Committee (HLRC). The HLRC are charged with reviewing any rights restrictions imposed on an individual served. More information on the HLRC can be found at <a href="http://www.sos.ne.gov/rules-and-regs/">http://www.sos.ne.gov/rules-and-regs/</a>. The committee members must be persons free from conflict of interest and who will ensure the confidentiality of information related to individuals served. The person responsible for approving the individual's program and any staff who provides direct services to the individual cannot participate as decision makers. At least half of the committee members must be individuals, family, or other interested persons who are not provider staff.</p>	No	The response addresses the question and did not require a change in the plan.

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84.d	4/25/2016	<p>Please explain the quality review process within the Medicaid Waiver programs. (Do individuals with disabilities participate? Families?)</p> <p>Does the state plan to implement the National Core Indicators? If not, what is the process for insuring quality within the state Medicaid Waiver Programs? How will the selection of the participant tool be decided?</p> <p>How are stakeholders being engaged in this determination? Please provide details on how individuals and families will know their rights in having a lease? (Or what should be included in the lease?)</p> <p>Heightened Scrutiny: The TBI Waiver only funds 1 location. Please explain how this can be grouped as "Group A. Settings that fully comply" and how this offers choice to participants if they only have 1 choice in which they can reside.</p>	No	The response addresses the question and did not require a change in the plan.

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84.e	<p>4/25/2016</p> <p>Using a randomized stratified sample for DD Waiver setting assessments seems inconsistent with the assessments used for the A&amp;D Waiver and TBI Waivers. There is much variation between DD Providers and settings - (ie. Group home, companion home, extended family home). How does this process fully comply with the HCBS rule? How will a heightened scrutiny process be determined to identify settings out of compliance if not all equally assessed? DDD staff to answer</p> <ul style="list-style-type: none"> <li>- Please provide greater explanation of those settings that need heightened scrutiny and what the process of determining compliance will be.</li> <li>o When will the specific settings be named?</li> <li>o How will public comments be sought and stakeholders engaged for input for settings classified as: <ul style="list-style-type: none"> <li>- Group B. Settings that do not comply, but could with modifications</li> <li>- Group C. Presumptively institutional in nature; and</li> <li>- Group D. Settings that cannot comply.</li> </ul> </li> </ul> <p>Competitive Integrated Employment:</p> <ul style="list-style-type: none"> <li>- Please explain how Nebraska will come into compliance with implementing competitive, integrated employment within all its Medicaid Waiver programs.</li> <li>-What will be the process for determining those who are not able to be in a competitive work setting?</li> </ul> <p>Again, we greatly appreciate the Department’s significant work on this draft plan. Members of the undersigned agencies would welcome the opportunity to be a resource to you through this process. Please contact Kathy Hoell, Executive Director of the Nebraska Statewide Independent Living Council (NE SILC) with future communications and she will forward these to the HCBS Coalition members.</p>	<p>Guidance provided by the Centers for Medicare and Medicaid Services (CMS) indicated that a randomized stratified sample would be acceptable to determine the sites for assessment. That being said, additional assessment of sites will be completed in the coming months to validate the results which have already come in as well as provide an opportunity to review additional sites based on stakeholder feedback.</p> <p>The State will further define the heightened scrutiny process in line with CMS guidance. States are required to solicit public input for sites the state has identified as subject to heightened scrutiny. The milestones in the current plan draft call for this process to occur in the fourth quarter of 2017.</p> <p>It is anticipated that competitive integrated employment will need to become a service of all HCBS waivers in the future. This topic will be considered as part of Long-Term Supports and Services Redesign (LTSS).</p> <p>Currently, the Nebraska Department of Developmental Disabilities (DDD) has a vocational service option that is focused on competitive and integrated employment under the 1915 (c) waivers. DDD continues it's work with technical assistance from CMS to stabilize all DDD waiver services . CMS has addressed the question regarding if there is a minimum number of residential settings that must be offered to an individual. There is no minimum number of options, but an individual must be able to select among setting options that include non-disability-specific settings and an option for a private unit in a residential setting.</p>	No	Clarification for next steps will be reviewed to insure representation in the plan.

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		<p>All decisions made by or on behalf of individuals receiving services are approached through a person centered planning process. It will be the responsibility of the individual's team to support the individuals in the decision if he/she would like to continue to work or seek complete employment. Nebraska intends to comply with the Home and Community Based Services (HCBS) Final Rule to implement processes to ensure competitive, integrated employment options are available through partnerships with our current community providers and other stakeholders.</p>		