TRANSITION PLAN FOR THE CT HOME CARE PROGRAM FOR ELDERS MEDICAID WAIVER

On January 16, 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to review and evaluate HCBS settings, including residential and nonresidential settings. The rule became effective March 17, 2014. States are required to ensure all HCBS settings comply with the new requirements and analyze all settings where HCBS participants receive services to determine if current settings comply with the final rule. The Connecticut Department of Social Services (DSS) has created a **draft** Transition Plan to assess compliance with the HCBS settings rule and identify strategies and timelines for coming into compliance with the new rule. The federal regulation for the final rule can be found on the CMS website at:

http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

This **draft** Transition Plan is open for public comment. The public comment period will be open for 30 days to allow all HCBS participants and providers an opportunity to provide input to the Transition Plan.

In preparing for the amendment to the Elders waiver, the Department of Social Services reviewed the waiver and identified 3 services and one setting that required further review to assure compliance with the new HCBS requirements. The three services are Adult Day Health, Adult Family Living and Assisted Living. The setting requiring review is the Residential Care Homes.

Residential Care Homes: Initially, DSS set out to identify the number of Elder waiver participants residing in residential care homes (RCHs). An analysis indicates there are 254 participants residing in RCHs. These locations in the state vary widely in the appearance, size and home like qualities. The state recognizes that some of the settings will be fully compliant with the new regulation while others will need to make changes to become compliant. To accomplish this, the state has a number of steps it needs to take. First, all care managers were trained on the new rule and were introduced to a survey to be utilized from September 1, 2014 through February 28, 2015 when performing a participant's annual or semi-annual reassessment at the RCH. The survey will ask participants asked about their choice of setting and will also ask about areas such as privacy, dignity and respect as well as choice of HCBS waiver providers. Case managers will evaluate if the setting was clearly chosen by the participant as part of the person centered plan. A survey will also be developed and distributed to all RCHs in the state to

do a self assessment of compliance during the same time period. It is anticipated that a meeting with the association will need to take place either prior to or after the analysis of the survey data. The department will also engage in conversations with the CT Department of Public Health that licenses residential care homes to determine if regulatory changes might be needed to ensure compliance with the HCBS settings rule. This will be accomplished by June 30, 2015. DSS's goal will be to incorporate language from the new rule into the RCH regulations. A summary of the survey findings will identify areas that changes will need to be made to bring the setting into full compliance.

The state will engage with stakeholders to provide input on a final transition plan that will be submitted to CMS for final approval by 10/31/14.

Notice was published in the CT Law Journal on 7/8/2014 outlining both the changes resulting in the Elders waiver amendment and the transition plan. In addition, the tribes were notified of the amendment and transition plan on 6/26/14.

A second notice (this document) soliciting comments was published on the DSS web site on July 22, 2014.

The department has determined that all of the services in this waiver fully comport with the HCBS settings requirements including Adult Day Health, Adult Family Living and Assisted Living.

Adult Family Living- This service is provided in the home of the participant or of the caregiver. This service comports with CMS requirements as:

- it is selected as a service by the individual from a range of available services and qualified providers.
- the participant understands that selecting this service setting also means they are selecting this service provider as part of a bundled rate
- additional home and community based services are selected by the participant from a range of qualified service providers to address a need identified in the person centered planning process

The setting is chosen by the waiver participant as part of the person centered planning process. The rate for the service is a bundled rate that but the participant has free choice of qualified providers for any other services provided in addition to the Adult Family Living Provider.

The Department is in the process of assessing the credentialing language for this service against the requirements in the new CMS rule and will adjust the credentialing requirements to ensure

compliance with regard to the settings characteristics specified in the new rule. This will be accomplished by 6/30/15.

In the interim, as case managers complete person centered assessments for new waiver participants, they will be responsible to assess the setting's compliance with the required settings characteristics

Assisted Living- this service fully comports with CMS requirements as:

-the setting is integrated in and supports and facilitates access to the greater community
- facilitate interaction with non-Medicaid participants
-has lockable doors facilitating privacy
- each participant has a lease
-if the participate chooses to share a unit, they have freedom to choose their roommate
-the participants have control over their own schedule and are free to decorate their unit as they choose
-the unit has kitchen facilities in each allowing access to food at any time
-visitors are permitted at any time
-the setting is physically accessible
- the setting is chosen by the participant as part of the person centered planning process and participants are aware that choosing this setting provides a specified service provider that provides a bundled services
- additional services may be selected by the participant from a list of qualified service providers.

DSS has assessed this service and the CMS final rules requirements are specified in the Department of Public Health regulations. To complete this assessment process, the state met with representatives of the Assisted Living provider Association and confirmed that all communities are required to have leases with their tenants. Department staff also visit assisted living communities as part of our ongoing quality assurance plan and based on observations of DSS clinical staff, it has been determined that the setting is compliant with the CMS rules. We also will review our own regulations and ensure that language is included in the regulations that specify the requirements included in the final rule. This will be completed by 12/31/15.

Adult Day Health: this service comports with CMS requirements as it is:

- chosen by the participant from a selection of services from qualified providers
- it is selected by the participant as part of the person centered planning process
- it facilitates integration to community activities
- it facilitates interaction with non-Medicaid recipients
- the certification process emphasizes participants' rights to privacy, dignity and respect.

The state has assessed the Adult Day Health Service with regard to the new settings requirements. Initially, the state met with the Adult Day Care Association certification team to

discuss the certification process. It was determined that the process, although it does look at the home-like setting, could have stronger language that comports with the CMS final rules specifications. By 12/31/14, the state will work with the association to include language in the certification standards that includes language from the final rules.

In addition, in collaboration with the ADC Association, the Department specifically reviewed weekly and monthly calendars for programs that were adjacent to or on the grounds of a facility. There are several programs located adjacent to a facility and others that are on the grounds of communities that have a range of levels of care ranging from complete independent living to nursing home. In all cases, the activities calendars indicated that the program serves to facilitate integration into the community and interaction with non-HCBS program participants. The department will review its regulations regarding this waiver program and if necessary, add language to comport with the CMS final rules. This will be accomplished by December 31, 2015.

Comments and input on this transition plan can be submitted during the 30 day comment period the following ways:

By Email to Kathy.a.bruni@ct.gov
By mail to Kathy Bruni, Department of Social Services
55 Farmington Ave.
Hartford, CT 06105
By fax to 860-424-4963 to the attention of Kathy Bruni