

New York State Office for People with Developmental Disabilities (OPWDD)

Home and Community Based Services (HCBS) Waiver Renewal and Update of the 1915 B Application and the Plan for Assessing Home and Community Based Services (HCBS) Settings Compliance with Final Federal Rules

**Post Date 5-2-2014
Posted for Public Comment until June 3, 2014**

Purpose

The purpose of this posting is to provide public notice and receive public comments for consideration regarding OPWDD's anticipated HCBS Settings Transition Plan and the OPWDD's 1915 (c) Comprehensive Home and Community Based Services (HCBS) Waiver Renewal (i.e., the People First Waiver) scheduled for renewal October 1, 2014.

Waiver Renewal

OPWDD and the New York State Department of Health (NYSDOH) are working with the federal centers for Medicare and Medicaid Services (CMS) on an agreement called the People First Waiver, a 1915 (b)/(c) concurrent Comprehensive Home and Community Based Services (HCBS) waiver. This agreement will renew the OPWDD 1915(c) Comprehensive HCBS Medicaid Waiver for People with Developmental Disabilities. This agreement will also be the vehicle OPWDD uses to streamline a person-centered system of comprehensive supports and services and will authorize the creation of a managed care delivery system for individuals with disabilities. The requested managed care delivery system will be purely voluntary and allow individuals to opt to enroll in a Developmental Disability Individual Support and Care Coordination Organization (DISCO). The waiver will also implement reforms to the Consolidated Supports and Services (CSS) and add new services like Individualized Directed Goods and Services (IDGS) that allows people to budget for and purchase items that support independent living. OPWDD held information sessions throughout April 2014 regarding CSS and the training material is available on the OPWDD website:

http://www.opwdd.ny.gov/transformation-agreement/CSSRedesignPPT_Individuals.

The State will also be proposing a new waiver service to support individuals in crisis. The "START" service (Systematic, Therapeutic, Assessment, Respite and Treatment) will provide crisis respite and psychological services to stabilize individuals in crisis to prevent placement in a more restrictive setting. This proposed service will be reviewed by CMS as part of the larger waiver renewal application.

Information about this and other changes to the waiver were discussed at the March 2014 Discussion Board video conference and the PowerPoint can be found on the OPWDD Webpage:

<http://www.opwdd.ny.gov/node/5253>

Transition Plan

The federal CMS recently adopted rules that contain standards for home and community based settings and that require the State to submit a transition plan at the time of an HCBS waiver renewal. This plan must set forth the actions the State will take to bring the waiver into compliance with these standards (see, 42 CFR 441.301 (c) (4)-(6)).

In addition, within 120 days of the submission of the State's first waiver renewal or amendment request, the State must submit a transition plan detailing how the State will operate all applicable HCBS programs in compliance with the final rules.

OPWDD is working with the New York State Department of Health and other New York State agencies on the State's overall Transition Plan. This communication applies specifically to OPWDD's 1915 (c) Comprehensive HCBS Waiver. More information on the federal rules and associated guidance can be found on the CMS website at www.medicaid.gov/hcbs.

Overview and Background on OPWDD's Transition Plan

In early 2013, as part of OPWDD's Transformation Plan, OPWDD began working with a group of stakeholders to seek input relative to drafting implementation guidance to operationalize CMS's May 2012 Notice of Proposed Rulemaking (NPRM) on quality principles and characteristics for settings in which Home and Community Based Services (HCBS) are delivered. A stakeholder subgroup of OPWDD's Regulatory Reform Steering Committee convened in spring 2013 and met through October 2013 to provide input on a draft Administrative Memorandum (ADM) reflecting implementation guidance on HCBS settings compliance. Substantial public input was then sought culminating in revisions to the initial ADM and an implementation work plan submitted to CMS in November 2013 as a Balancing Incentive Program (BIP) Transformation deliverable.

These efforts were coordinated with the development of New York State's Olmstead Plan developed through the Olmstead Development and Implementation Cabinet created by Governor Cuomo's Executive Order number 84. The Report and Recommendations of the Olmstead Cabinet published in October 2013 incorporated the work of OPWDD's transformation stakeholder teams as well as the HCBS Settings stakeholder work group. This report is available on OPWDD's website via the following link: <http://www.governor.ny.gov/assets/documents/olmstead-cabinet-report101013.pdf>

In January 2014, CMS adopted the HCBS settings rule. This rule was effective March 17, 2014 and allows for a transition plan of up to five years for full compliance. As a result, OPWDD is updating its November 2013 work plan submission to reflect the following Transition Plan specifically for the OPWDD HCBS waiver which builds upon the comprehensive stakeholder dialogue that began last spring 2013.

Summary of OPWDD Transition Plan Activities and Anticipated Timeline

Timeline	Transition Plan Activity*
Began Feb. 2014 and ongoing	Convene information sessions with various OPWDD stakeholder groups on the final HCBS Settings regulations for public education purposes.
March 2014 -May 2014	Conduct preliminary assessment of the <u>types</u> of HCBS residential settings that OPWDD can assume complies with CMS HCBS settings requirements and guidance based upon a cross walk of OPWDD’s existing certification standards and regulatory requirements vs. CMS regulations and guidance and the Division of Quality Improvement’s certification data.
April –August 2014	Evaluate OPWDD’s program policies, standards, and requirements to identify any needed changes for full alignment with HCBS settings requirements and identify target dates for necessary revisions. Also evaluate OPWDD’s DISCO design for alignment with HCBS settings requirements.
May - August 2014	Revise November 2013 Draft HCBS Settings ADM to reflect final regulations and obtain public input on changes. Finalize ADM and formally issue it to OPWDD providers.
May-August 2014	Develop an OPWDD on-site survey assessment tool to compile baseline information on HCBS settings compliance and an information management solution to collect necessary performance data.
October 2014 –	Implement OPWDD’s on-site HCBS Settings Assessment (note: this period aligns with DQI’s annual survey cycle).

September 2015.	
October 2015-February 2016	Analyze the results of OPWDD's on-site HCBS Settings Assessment to identify specific issues and challenges that will need to be addressed through the five year transition period.
February 2016-April 2016	Develop and submit to CMS any necessary revisions to the OPWDD and/or NYS Transition Plan based upon the OPWDD HCBS Settings Assessment.
October 1, 2016	Formalize the full incorporation of all HCBS settings requirements into OPWDD's certification requirements and processes including survey tools, protocols, processes, and accountability initiatives for October 1, 2016 implementation. This includes adverse actions for non-compliance for any components of the CMS HCBS settings requirements that weren't already required by OPWDD prior to the CMS regulations being finalized.

*The OPWDD Transition Plan Activity outlined above does not include non-residential settings as OPWDD is awaiting CMS guidance on the implications of the CMS final regulations on day settings. Once CMS issues guidance on day settings, we will reevaluate our transition plan and incorporate day settings wherever possible into the structure of this Transition Plan.

Comments

Public comments are requested in writing no later than June 3, 2014 and can be directed to the following email and/or address:

People.first@opwdd.ny.gov

OPWDD
44 Holland Avenue, 4th Floor
Albany, New York 12229

Attention: DQI HCBS Settings & Waiver Renewal