

# OPWDD ICF Transition Plan

## Implementation Strategy

September 2014

### Introduction

In 2011, New York State embarked on comprehensive programmatic and fiscal reform of its delivery of services to all New Yorkers, including individuals with developmental disabilities. Governor Andrew Cuomo implemented a dramatic redesign of the State's Medicaid program to enhance care coordination and the delivery of cost-effective care in community-based settings. Within this statewide reform initiative, OPWDD developed its own plan for system transformation in partnership with the federal Centers for Medicare and Medicaid Services (CMS) and the NYS Department of Health. This plan is articulated in a formal **Transformation Agreement** and which is based on furthering OPWDD's mission and vision for individuals with developmental disabilities through a service system that is more need-driven and person-centered, and which reduces OPWDD's reliance on institutional models of care.

In October 2013, New York State's Olmstead Cabinet, charged with developing a plan to fulfill New York's obligations under the 1999 US Supreme court decision in *Olmstead v. LC.*, issued a Comprehensive Plan for Serving New Yorkers with Disabilities in the Most Integrated Setting. That plan calls for state agencies, including OPWDD, to take specific actions to support individuals to transition from segregated settings to community settings, to change how they measure their success in supporting people in the most integrated settings possible, to enhance the integration of people in their communities, and to remain accountable to the Olmstead mandate.

Demonstrating its commitment to the transformation goals and the Olmstead mandate, OPWDD specifically described in its Transformation Agreement an **ICF Transition Plan** which would over time shift the developmental disabilities service system's reliance on the ICF institutional model of care to more integrated, community-based supports. Through the ICF Transition Plan, OPWDD will decrease the number of individuals supported in ICF/IIDs each year through October 1, 2018. At the same time, the Plan calls for an increase in Supportive and Supervised Individual Residential Opportunities (IRAs) over the same time period. Finally, OPWDD is also committed to supporting more people to live in non-certified residential settings and is actively exploring ways to support people with developmental disabilities who choose them.

In addition, within the Transformation Agreement, OPWDD committed to participate in two federal system rebalancing opportunities: the Money Follows the Person (MFP) Demonstration and the Balancing Incentives Program (BIP). Today, as OPWDD assists people to leave institutional settings and move into their communities, closing Developmental Centers and fulfilling the commitments of the ICF Transition Plan, both of these programs bring additional resources to New York in support of community-based supports and services.

## **Changing the System to Support Transitions**

Implementing the ICF Transition Plan will transform how OPWDD's community-based services and supports respond to individuals' needs. Still, the focus will be on the individual and his or her unique needs and goals in life and ensuring that those needs and goals determine the supports and services each person receives. All individuals who transition from an ICF to a community-based setting will continue to have their needs met. New kinds of supports will be available in community settings: clinical, medical and behavioral supports and services that will allow greater community integration and quality of life.

Implementing the ICF Transition Plan and arriving at the needed advancement of community-based supports will require partnership between OPWDD, provider agencies and Medicaid Service Coordination agencies to problem solve, and then envision and develop the person-centered service plans that will be needed for the transitioning individuals. And to be sure, getting the needed supports for each person will require solid fiscal support for ICF conversion, downsizing and closures and the needed community-based supports.

Within the OPWDD system are many examples of providers finding success in new ways to support individuals. OPWDD will work to share these best practices to promote learning in how to support more people to experience community-based, integrated lives.

### ***Family Expectations***

ICFs offer supports that are institutional in nature, and have an expectation of planning for each person to experience support in a more integrated setting. Offering every person the opportunity to lead a more integrated life with community-based supports and services is a cornerstone of OPWDD's system transformation. OPWDD recognizes there will be many questions about this process. The transition from ICFs to community settings will require early, frequent and effective communication with the individuals who reside in the ICFs and their family members and advocates. Sharing information and providing opportunities for people to voice their concerns so that they can shape the person-centered planning for an individual will be essential to ensuring concerns are addressed. OPWDD will provide information to address ICF Transitions questions and recommendations to support strong relationships between providers and individuals and families.

### ***Workforce***

Providers considering the provision of supports for people with intellectual and other developmental disabilities (IDD) in non-traditional settings will face new challenges with their direct support workforce. Examples of non-traditional settings are the person's own home or their family's home, compared with traditional sites such as group homes, congregate day services, and supportive apartments.

OPWDD acknowledges that its transformation agenda—including self-direction, integrated employment, housing and other services alternate to the congregate model—is possible only with a transformed workforce. The agency issued a directive to all service providers to prepare approximately 90,000 DSPs achieve an operational commitment to the NADSP Code of Ethics and an evaluated

proficiency with the NYS DSP Core Competencies by March 31, 2017. Six Regional Centers for Workforce Transformation have been created to assist with these efforts. In addition, the NYS Governor and Legislature have offered specific financial support for OPWDD to create a DSP credentialing design that will go beyond the DSP Core Competencies.

### ***Supporting People in Non-Certified Settings***

The growth in community living must equate with greater use of non-certified settings by those currently residing in supportive and supervised IRAs as well as those in ICFs. Tapping into community housing resources, however, is a relatively new activity for many within the OPWDD service system. The idea of living in a non-certified setting other than the family home raises questions about risk, about how to navigate tenant-landlord relationships, and creating the needed back-up plans. For providers, it also raises real questions about how to effectively and efficiently manage a more scattered workforce. OPWDD is now in the midst of building significantly greater capacity for supporting people with developmental disabilities in supportive apartments, private homes and publicly supported homes and apartments. By connecting to the agencies and companies engaged in developing supportive housing and other housing resources, and learning from examples within other service systems, OPWDD is actively preparing the service system for much greater use of more integrated, non-certified residential settings by individuals with developmental disabilities and working to understand how providers can access them and effectively deliver the necessary supports and services to individuals in these locations. OPWDD's 2013-14 quarterly Transformation Agreement progress reports (<http://www.opwdd.ny.gov/transformation-agreement/progress-updates-and-quarterly-reports>) detail the activities underway in this area.

### ***Using Technology to Support Greater Independence***

As OPWDD transforms its service system, the role of advanced technologies in helping individuals to live richer, more independent lives is a topic of interest and increasing exploration. Tablet computers and smart phones, as well as various monitoring devices that can help reduce reliance on staff signal supervision that isn't necessary most of the time. OPWDD adheres to federal CMS's regulations regarding the use of HCBS waiver funds for adaptive technology. While it has established a standard for the kinds of technologies which can be funded, that standard will require additional consideration as new technologies emerge. OPWDD also has a draft policy regarding the use of video cameras and recording devices in certified facilities which is currently under review by CMS and OPWDD's Regulatory Reform Workgroup. OPWDD will continue to track the use of technology by individuals and providers and advocate for opportunities for it to support greater independence and autonomy for individuals.

### ***Spurring Moves toward Greater Community Integration along the Full Range of Residential Supports***

OPWDD recognizes that to support individuals to transition out of ICFs and into community settings—and to be true to the Olmstead mandate—it must similarly encourage the individuals who are now living in community-based congregate settings such as IRAs to plan for and experience more integrated living. While many individuals will continue to require the supports of a supervised IRA, some may just as surely be able with appropriate support to enjoy a more integrated setting such as their own apartment. Sharing individuals' very real success stories will also help others to understand what can be possible and desirable, even for those with significant support needs.

## Timeline

OPWDD has committed to achieving the full ICF Transition Plan by October 1, 2018, and meeting the goals contained in the plan for each calendar year. Developing the fiscal platforms to support the changes in ICF operations will take creative thought and constructive partnership between those who provide the funds, those who deliver the supports and services, and those individuals, family members and advocates who drive the service planning process. This work is underway, but is far from complete. Nonetheless, fulfilling the commitments contained in the ICF Transition Plan will require that providers begin to assist individuals to transition to their communities and decrease the ICF footprint in 2014.

<b>Year to Year Changes in Use of Certified Housing Options</b>						
<b>Housing Options</b>	<b>August 1, 2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>October 1, 2018</b>
SOICF-CAMPUS	994	731	493	268	181	150
SO ICF-COMMUNITY	659	593	504	428	257	0
VOICF	5669	5102	4337	3686	2211	456
IRA SUPPORTIVE	2227	2326	2475	2624	2823	3221
IRA SUPERVISED	26685	27088	27693	28298	29104	30721

<b>Year to Year Growth in Certified and Non-Traditional Housing</b>						
<b>Housing Options</b>	<b>August 1, 2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>October 1, 2018</b>
IRA BASED HOUSING	0	502	754	754	1005	2015
NON-TRADITIONAL RESIDENTIAL HOUSING AND PERSON CONTROLLED HOUSING	0	394	338	198	728	28
TOTAL	0	896	1092	952	1733	2043

### **ICF Conversions**

The first transitions of individuals to occur are likely to be the conversion of smaller sized ICFs (those providing services to as many as 14 people) to IRAs. This undertaking requires significant planning with individuals and families to ensure they exercise personal choice and that person-centered planning leads to appropriate community supports to meet their needs. In making this conversion, OPWDD will require providers to ensure that the conversions result in meaningful and measurable change in how

services are planned and how an individual is supported to be a member of the community and to achieve his or her unique goals in life. All ICF conversions will be required to comply with the new federal HCBS Settings and Person-Centered Planning regulations (CFR 441.301) which went into effect March 17, 2014, and demonstrate without question increased individual choice, autonomy and community integration for the individuals supported. OPWDD will provide guidance for the conversion process and the documentation needed to assure the new IRAs offer truly integrated, person-centered supports.

### ***ICF Downsizing and Closure***

Downsizing ICFs will be an essential component of the Plan, as some ICFs will choose to downsize by assisting some individuals to transition to other community-based settings and then to convert the smaller ICF to a community-based service model (IRA), while others may assist everyone in the ICF to move to new, community settings and close the ICF entirely. OPWDD recognizes that these plans will take time to determine, and that financing will be essential to ensure the successful transition for the individuals, both those who remain in the ICF prior to its conversion or closure and those who transition earlier to community settings. OPWDD is committed to supporting the individuals and families, and the providers who provide residential services to them, throughout these transitions. OPWDD will assist providers to develop residential plans that make sense for the people they support and the facilities they currently operate. ICF downsizing and closure will likely provide more transitions of individuals in the later years of the ICF Transition Plan.

## **OPWDD Activities to Support Transitions**

### ***Funding Policies for Supporting ICF Conversions, Downsizing and Closures***

OPWDD recognizes that ensuring appropriate funding for the downsizing and closure of ICFs and the support of individuals in community settings is paramount in achieving the ICF Transition Plan. There are many specific and detailed funding questions that arise as OPWDD and its providers begin to examine all that is involved and necessary to ensure the continued fiscal viability of ICFs as they downsize and the fiscal viability of new community-based service delivery for people with significant medical and behavioral support needs. Questions about staffing levels in community settings, backfilling ICF opportunities, supporting the movement of people out of community-based certified settings and into even more integrated, non-certified settings, and the use of enhanced transitional, or “template”, funding all require discussion and clear and consistent responses.

OPWDD has worked closely with provider agency representatives to understand the many important fiscal implications for making the shift from ICF services to HCBS waiver and non-certified residential supports and is poised to address each of these questions. The agency will communicate fiscal policy decisions to its stakeholders as they are resolved and will work closely with provider agencies as they develop and refine effective and sustainable person-centered plans for their residential operations. As providers work directly with their Developmental Disabilities Regional Offices (DDROs) to develop their proposals for ICF downsizing and closure, fiscal and other policy decisions affecting each proposal across the state will be coordinated at OPWDD’s central office.

### ***Recommendations for Providers***

To prepare for the needed transformation of residential supports, providers will want to begin now to examine their ICF services: the service needs of the people they support in ICFs, the size and location of their ICFs, and the current staff they have providing support in their ICFs. They should begin to think about how they will organize and initiate discussions with individuals and families about the coming changes and support options they can consider.

Understanding the new federal HCBS Waiver settings standards and person-centered planning regulations (effective March 17, 2014) and how new IRA settings and service planning will comply with them will be critically important. OPWDD has provided information about its Transition Plan for full compliance with the new HCBS settings standards on its Website ([http://www.opwdd.ny.gov/opwdd\\_services\\_supports/HCBS/transition-plan](http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/transition-plan)) and will continue to update this information as developments occur. Specifically, OPWDD is developing a new protocol for surveying certified HCBS residential sites and, over a full year, will use it to obtain a solid baseline understanding of how the system currently meets the new HCBS settings standards. In the interim, OPWDD will also provide a HCBS Settings Checklist to help guide providers prior to the completion of the survey protocol and implementation of any changes that are determined to be needed to ensure full compliance. OPWDD is also developing guidance related to the person-centered planning regulations, and will communicate the location of all guidance documents on its website as they are completed.

As providers undertake this work, it must be emphasized and repeated that they must do so in partnership with individuals, families and staff. Working together *with* them to map out a clear plan for analyzing agency operations, establish a reasonable timeline for change, and plan a process for accomplishing individual service planning in a person-centered way will prove to be key to success.

### ***Guidance on Transitions & Conversions***

Achieving the yearly targets contained in the ICF Transition Plan will necessitate that providers undertake numerous activities in parallel—things like communicating with individuals and families about the ICF transitions, applying for a Certificate of Need, obtaining fiscal approval from OPWDD for program changes, discharge planning for individuals, enrolling individuals in entitlement programs, and waiver service planning, to name a few. OPWDD is preparing for the numerous transition initiatives that will occur. It is also preparing comprehensive guidance on the numerous processes that ICF providers must undertake when converting an ICF to an Individual Residential Alternative (IRA) or proposing to downsize and close an ICF

### ***Ongoing Communication***

In fulfillment of its mission, OPWDD is committed to achieving the ICF Transition Plan in a way that focuses on the individuals we support and their needs. The only way to do that is to move forward fully in step with individuals, family members, providers and other advocates. The shift in our collective thinking about residential supports is too significant to undertake without all on board; it demands our combined attention and commitment. OPWDD has identified several mechanisms that will facilitate the open dialogue and information sharing that will be needed to ensure all parties—OPWDD and all of its stakeholders—can move forward together.

### OPWDD Website

OPWDD provides extensive information about its service system for its many stakeholders on its public website ([www.opwdd.ny.gov](http://www.opwdd.ny.gov)). The agency will develop a specific webpage on that site which will be dedicated to information related to Community Transitions and the ICF Transition Plan (<http://www.opwdd.ny.gov/transformation-agreement/mfp/home>). Here, OPWDD will post all related policy documents, progress updates, announcements of information sharing opportunities, and an email address ([community.transitions@opwdd.ny.gov](mailto:community.transitions@opwdd.ny.gov)) through which stakeholders can submit comments and questions about the ICF transition process and progress.

### Quarterly Updates via OPWDD Transformation Videoconferences

Each quarter, OPWDD hosts two statewide videoconferences to provide updates and gather comments related to the agency transformation and development of the People First Waiver. It hosts one videoconference for an audience of voluntary providers, individuals and family members across the state, and another videoconference solely for OPWDD employees. These quarterly gatherings have provided a forum for regular information sharing among all parties and helped OPWDD understand and address concerns and issues. OPWDD will use these quarterly opportunities to present updates and take input on the ICF Transition Plan.

### The Developmental Disabilities Advisory Council

The Developmental Disabilities Advisory Council (DDAC) has been established by New York State law, for the purpose of fostering public understanding and acceptance of developmental disabilities and advising the OPWDD commissioner on matters related to development and implementation of the OPWDD's comprehensive plan and on OPWDD's performance, its policies, goals, budget and operations of developmental disabilities services. The Council membership includes representatives of community service board developmental disabilities subcommittees, and service providers, while at least one-third of the membership is made up of individuals with developmental disabilities, or their parents or guardians. The DDAC is an active group of advisors that meet quarterly to review and discuss all concerns and developments within the service system. As such the DDAC advises OPWDD on matters related to its system transformation, including the ICF Transition Plan. OPWDD will intentionally engage the DDAC in discussion related to the details of the ICF Transition Plan.

### 5.07 Plan and Hearing

Section 5.07 of New York State Mental Hygiene law requires an annual statewide comprehensive planning process involving each separate office of the Department of Mental Hygiene including the Office for People With Developmental Disabilities (OPWDD), Office of Alcoholism and Substance Abuse Services (OASAS), and Office of Mental Health (OMH) and coordination of planning at a local level through the Conference of Local Mental Hygiene Directors (CLMHD). The planning process is often referred to as the "5.07" planning process.

OPWDD is in the process of developing its statewide comprehensive plan and will hold a public hearing in fall 2014. The 5.07 Plan will include OPWDD's activities related to the ICF Transition Plan, and the public hearing will be an opportunity for stakeholders to provide comment on the ICF Transition Plan as well as feedback to OPWDD on the agency's overall strategic direction. OPWDD will collect, review and incorporate all stakeholder input into a final 5.07 Plan.