

2018 public comments summary on Minnesota’s transition plan

The Minnesota Department of Human Services (DHS) published a revised home and community-based services (HCBS) statewide transition plan on Sept. 10, 2018. DHS distributed the public announcement and request for comments to disability and aging stakeholders electronically and by mail:

- [2018 STP Public Comment E-List Announcement](#)
- [Revised Home and Community Based Services \(HCBS\) Settings Rule Statewide Transition Plan letter to county and tribal waiver coordinators \(PDF\)](#)

The statewide transition plan comment period was open for 30 days, until Oct. 10, 2018. DHS provided three ways for the public to comment:

- Email: (hcbs.settings@state.mn.us)
- U.S. mail to: ATTN: HCBS Statewide Transition Plan, Minnesota Department of Human Services, Disability Services Division, P.O. Box 6496, St. Paul, MN 55164-0967
- By phone: Disability Hub MN (651-431-4100)

DHS received 19 responses via email and standard mail. The letters included detailed comments and recommendations about the statewide transition plan. After DHS’s analysis, we divided the comments of each letter into categories related to the statewide transition plan and then themes within each category. Illustrated in Table 1 below are 11 separate categories divided into 31 themes.

In Table 2 are the public comments and responses from DHS. When DHS received six or fewer comments on a particular theme, we included the actual number of comments. For example, on topic IV, Ongoing Compliance, within the theme “concern regarding licensing and oversight structures,” we received one comment about neutral third party oversight. If there were seven or more comments on a theme, DHS documented the number as either “several” or “many.” Further, DHS indicated whether we modified the statewide transition plan based on the public comments.

Table 1: Public comment topic categories and themes

Topic categories	Topic themes
I. Support for Minnesota’s STP	<ul style="list-style-type: none"> • Overall support for Minnesota’s STP
II. Statewide transition plan - General	<ul style="list-style-type: none"> • Compliance deadline extension
III. Minnesota’s vision	<ul style="list-style-type: none"> • Workforce shortage • Affordable housing options • Size limits and the state’s demographic changes
IV. Transition protocol for people who receive services	<ul style="list-style-type: none"> • Clarifying terms • Information, exposure and accessibility to integrated options • Providers that have opted out—how have people been supported?
V. Public engagement	<ul style="list-style-type: none"> • Communication to people who do not speak English • Communication to people on Elderly Waiver/managed care
VI. Systemic remediation	<ul style="list-style-type: none"> • Access to services • Person experience assessment • Rights modifications • Person-centered planning requirements • MnCHOICES support planning

Topic categories		Topic themes
VII.	Site-specific assessment, validation and remediation	<ul style="list-style-type: none"> Initial assessment and validation
VIII.	Presumed not to be HCBS	<ul style="list-style-type: none"> Identifying settings that have the effect of isolating Effect-of-isolating criteria On-site visits Site-specific transition plans and outreach Heightened-scrutiny process
IX.	Residential tiered standards	<ul style="list-style-type: none"> Minnesota’s structure of separating housing from services 25 percent trigger and site-specific review process Customized living for people older than 55 Individualized community supports implementation
X.	Non-residential tiered standards	<ul style="list-style-type: none"> New employment services Limits/moratorium on DT&H Limits on prevocational services Needs-determination process Interim guidance – vocational rehabilitation services
XI.	Ongoing setting compliance	<ul style="list-style-type: none"> New providers

Table 2: Public comment summary

I. Support for Minnesota’s STP	Plan modified?
<p>Theme: Overall support for Minnesota’s STP</p> <ul style="list-style-type: none"> The level of detail on milestones, progress and work yet to be analyzed leads to a comprehensive, actionable plan. In addition, the built-in links to related documents and websites makes it very user-friendly. We applaud the efforts of staff within the DHS Disability Services and Aging & Adult Services divisions to establish more individualized service options as outlined in the transition plan. Flexibility and customization within the array of services available to Minnesotans with intellectual and developmental disabilities is critical in offering the diverse supports necessary to help people reach personal goals and lead fulfilling, self-directed lives – especially in the areas of employment and housing, which are central components of the state’s HCBS transition plan. We strongly support the two new residential services — Individualized Home Supports and Integrated Community Supports – because they will provide individuals with more options We appreciate the clarity with which the plan clearly connects development of new services and regulatory changes to the HCBS settings rule. 	Plan not modified

I. Support for Minnesota’s STP	Plan modified?
<ul style="list-style-type: none"> I appreciate that, under the Rate Analysis heading, it says that DHS will focus on careful analysis to ensure that components within the DWRS accurately reflect the costs of providing services. <p>State response: We appreciate your comments and support for the transition plan.</p>	

II. Statewide transition plan - General comments	Plan modified?
<p>Theme: HCBS rule compliance deadline extension</p> <p>One commenter acknowledged the importance of a smooth transition as service providers work to comply; however, this commenter is disappointed that the deadline for compliance was extended. The commenter expressed concern that three additional years to transition limits choice and access for people to receive supports in the most integrated setting possible.</p> <p>State response:</p> <p>We appreciate your comments. CMS published an Informational Bulletin (PDF) on May 9, 2017, indicating that the transition period for compliance with home and community-based settings criteria was extended until March 17, 2022. For Minnesota, the extension means:</p> <ul style="list-style-type: none"> We will have more time to conduct site visits and allow enough time for CMS heightened scrutiny and subsequent transitions of people, if needed. Providers will have more time to fully transition, as needed. We will have more time to develop and implement future day services, as well as the tiered standards for services, such as customized living for younger people with disabilities. 	Plan not modified

III. Topic: Minnesota’s vision	Plan modified?
<p>Theme: Workforce shortage</p> <p>Four commenters expressed concern about Minnesota’s workforce shortage and the ability to have qualified direct support professionals to make this transition a reality.</p>	Plan not modified

III. Topic: Minnesota's vision	Plan modified?
<p>State Response:</p> <p>We appreciate your comments. In March 2018, the Cross-Agency Direct Care and Support Workforce Shortage Working Group submitted a Recommendations to expand, diversify, and improve Minnesota's direct care and support workforce report (PDF) to the Olmstead Subcabinet. This report lays out a strategic vision for tackling the crisis in the direct care and support workforce.</p> <p>In order to make significant changes to the workforce shortage, key stakeholders, including people who receive services, families, long-term health care payers and providers, must be involved in this process.</p> <p>To work collaboratively on this effort, DHS has compiled Direct care/support workforce initiative: Directory of leaders – lists and contacts (PDF) to help connect people and organizations who want to work together to address the direct care/support workforce shortage with those willing to lead these efforts.</p>	
<p>Theme: Affordable housing crisis</p> <p>Three commenters expressed concern about the lack of affordable housing for people served by HCBS providers.</p> <p>State response:</p> <p>We appreciate your comments. In addition to federally funded housing programs, Minnesota has several state-funded housing programs that help people with disabilities pay for housing costs, including Minnesota Supplemental Aid (MSA) Housing Assistance and Housing Support (formerly Group Residential Housing). Minnesota also has state housing programs for people living with HIV/AIDS and for people living with serious mental illness, including those who are transitioning from hospital or inpatient settings back into the community. DHS is aware that people in Minnesota face a shortage of affordable housing, which affects older people and people with disabilities who receive services through home and community-based services waivers.</p> <p>DHS works with Minnesota's Housing Finance Agency to assure people with disabilities have access to housing that complies with the HCBS rule requirements. DHS will provide technical assistance during the housing development phase to ensure these settings meet the HCBS rule requirements before development begins. DHS is also working to address the affordable housing needs of older adults by supporting housing development with state-funded Live Well at Home grants, and by partnering with the Minnesota Housing Finance Agency to provide technical assistance and partial funding for two affordable senior housing buildings. Recommendations from the Mental Health Taskforce that recently completed its work and recommendations and a plan from a workgroup on the reform of Minnesota's state housing subsidies and assistance will also address the availability of affordable, accessible housing options.</p>	Plan not modified
<p>Theme: Service access and state's demographic changes</p> <p>Two commenters shared concern that the STP does not address demographic changes, including significant population growth (people turning 65). People should be able to maintain services without the need to move or change service providers or waiver programs to address the intensive support they will need as they age.</p>	Plan not modified

III. Topic: Minnesota’s vision	Plan modified?
<p>State response:</p> <p>We appreciate your comments. The state acknowledges the aging of our population and the challenge it poses for the state. DHS is committed to developing and maintaining high-quality, accessible HCBS for all older Minnesotans. Our intention is to ensure older Minnesotans are given choice and opportunities for community living. Minnesota is committed to supporting HCBS providers so they can be fully compliant with the HCBS settings rule and continue to provide high-quality services to older adults. This information is addressed on Page 9 of the STP.</p>	

IV. Topic: Transition protocol	Plan modified?
<p>Theme: Clarification of terms</p> <p>One commenter requested clarification about the term “support planners” in describing the people with primary responsibility for providing support to people during transition as the term “support planner” is typically used in connection to the consumer-directed community supports option.</p> <p>State response:</p> <p>We appreciate your comment. The term “support planner” refers to lead agencies as it relates to the transition protocol. DHS created the Person-Centered, Informed Choice and Transition Protocol (PDF) as a guide that lead agencies (counties, tribal nations and managed-care organizations) must use to implement person-centered practices. The protocol explains DHS expectations for lead agencies and others who do support planning for people who receive long-term supports and services.</p>	Plan not modified

IV. Topic: Transition protocol	Plan modified?
<p>Theme: Access to and support for “integrated options”</p> <p>One commenter asked DHS to define “meaningful information about and exposure to integrated options” as it relates to transitioning to new services and new settings.</p> <p>State response:</p> <p>We appreciate your comment. During the transition process, the Person-Centered, Informed Choice and Transition Protocol (PDF) is used by lead agencies to document how people received meaningful information and the exposure they will have to integrated options based on preferences and experiences.</p> <p>There are also several resources for support planners on how to support and encourage informed choice, including A guide to encouraging informed choice in the Community-Based Services Manual and on the DHS Person Centered Practices webpage.</p> <p>In addition to protocols and guidance related to person-centered planning and informed choices, DHS assesses where education, problem-solving and support are needed related to person-centered planning and informed choice using the following strategies:</p> <ul style="list-style-type: none"> • Person’s experience assessment • NCI interviews (assess regional trends) • Communities of practice 	Plan not modified
<p>Theme: Access to settings that opted out of delivering HCBS waiver services</p> <p>One commenter asked if the public has access to information about the 34 settings that chose to opt out of delivering HCBS waiver services and how people are now accessing support.</p> <p>State response:</p> <p>We appreciate your comment. In DHS’s communication with these providers, we learned providers had multiple reasons for opting out, including previous decisions to close settings, an acquisition by another provider or selling of the business, and providers who no longer serve people who receive Medicaid-funded HCBS. The decision to opt out was not based on the settings’ inability or unwillingness to comply with the HCBS settings rule requirements; therefore, DHS will not share a list with the public. If CMS determines a setting does not meet the HCBS requirements through the heightened-scrutiny process, DHS will follow the transition protocol to contact people who receive services.</p>	Plan not modified

V. Topic: Public engagement	Plan modified?
<p>Theme: Targeted communication to people and families</p> <p>One commenter asked if the communications about new employment services were made available in alternative languages.</p> <p>State response:</p> <p>We appreciate your comment. The Explainer on New Employment services (PDF) DHS sent to people included a language block with the phone number for the Disability HUB, which can provide help to interpret documents.</p> <p>One commenter asked how many stakeholders offered participant feedback about services for people who receive support through the Elderly Waiver or managed care.</p> <p>State response:</p> <p>We appreciate your comment. In March 2017, DHS provided targeted outreach to each person enrolled in the Elderly Waiver and Alternative Care program. We developed and mailed the Aging and Adult Services Division letter to people receiving HCBS services (PDF) directly to each person. The letter included information about HCBS rights, how the HCBS rule and the requirements apply to people who receive adult day services, adult foster care or customized living, and how they can get more information. We have added a link to the letter to the STP on Page 14.</p> <p>Also in 2017, DHS developed the person’s experience assessment as part of the long-term care consultation reassessment and as a component of the new electronic support plan launched in June 2017. Assessors will administer the person’s experience assessment at the person’s mid-year review of the support plan or annual reassessment. DHS began to use the person’s experience assessment tool in September 2017 and continues to monitor its use. EW participants who receive adult day, customized living or foster care service under managed care will provide this feedback as part of annual reassessment. More information can be found in the Corrected #18-25-04: Elderly Waiver Participants in Managed Care Provide Feedback About Certain HCBS Services bulletin. We have added an updated link to Page 14 of the STP.</p>	<p>Plan modified</p>

VII. Topic: Systemic remediation	Plan modified?
<p>Theme: Clarification of terms related to assessment and support planning</p> <p>One commenter requested clarification of the term “support planning” as it relates to MnCHOICES. The term “support planner” is typically used in connection with the consumer-directed community support (CDCS) service.</p> <p>State response:</p> <p>We appreciate your comment. The term “support planning” or “support planner” relates to the assessment and support planning processes conducted by lead agencies (county, tribal nation or health plan) and does not refer to the role of the support planner for the CDCS service.</p>	Plan not modified
<p>Theme: Current service coordination practices and policies</p> <p>One commenter expressed concern about the disconnect between the assessment (person-centered plan) and providers attesting compliance with the person-centered plan.</p> <p>State response:</p> <p>We appreciate your comment. Lead agencies are required to share the person-centered plan that is pertinent to that service with providers. DHS continues to provide guidance and educational opportunities for lead agencies, providers and people who receive waiver services to ensure everyone is compliant with the requirements regarding person-centered planning in Minnesota. For example, while the provider is not required to receive a copy of the assessment, information from the assessment that is important for a provider to address through its services will carry forward so it is incorporated into the plan that goes to the provider. The state is monitoring lead agency compliance with person-centered planning requirements.</p>	Plan not modified
<p>Theme: Access to services</p> <p>One commenter expressed concern about access to transportation.</p> <p>State response:</p> <p>We appreciate your comment. In 2017, the Minnesota Legislature directed DHS to conduct a study to identify ways to increase access to transportation services for people who receive HCBS, identify efficiencies and collaboration opportunities and make recommendations for reimbursement for transportation funded by HCBS waivers. There are two aspects to this study:</p> <ol style="list-style-type: none"> 1. Identify and recommend service rates for transportation available under Minnesota’s four disability waiver programs and the Elderly Waiver and Alternative Care programs. 2. Identify and recommend technical and administrative improvements to transportation available to people under Minnesota’s four disability waiver programs and the Elderly Waiver and Alternative Care programs. <p>DHS has contracted with Navigant Consulting to conduct this study, which will involve data analysis, stakeholder input, provider surveys and an assessment of the current Minnesota transportation environment and innovative approaches in other states. Navigant is working with the University of Minnesota Humphrey School of Public Policy to develop a provider survey to identify access and capacity issues for waiver transportation services. The final report is due to the Legislature in January 2019.</p>	Plan not modified?

VII. Topic: Systemic remediation	Plan modified?
<p>Theme: Implementing rights modifications</p> <p>One commenter expressed concern that the HCBS rule rights and rights restrictions do not take into account doctor’s guidance.</p> <p>State response:</p> <p>Minnesota appreciates your comment. The restriction/modification of a person’s rights must be based on assessed needs related to the health, safety and well-being of the person. A person’s medical health and safety needs as determined by a medical professional are a critical factor in this assessment.</p> <p>One commenter recommends making considerations for people in memory care related to rights restrictions. “Why does each person need a lock on their door when the tenants are no longer able to understand how to use the locks?”</p> <p>State response: Minnesota appreciates your comment. Controls on personal freedoms and access to the community cannot be imposed on a class or group of people. Restrictions or modifications that would not be permitted under the HCBS settings regulations cannot be implemented as “house rules” in any setting, regardless of the population served and must not be used for the convenience of staff.</p> <p>Settings with controlled egress need to demonstrate how they can make individual determinations of unsafe exit-seeking risk and make individual accommodations for those who are not at risk. Should a person choose a setting with controlled egress, the setting must develop person-centered care plans and document the modification of the person’s rights. These must honor autonomy as well as minimize safety risks for each person, consistent with his or her plan goals.</p> <p>It is equally important to ensure robustness in the person-centered planning process by honoring other preferences the individual has outside of the specific risk targeted by the modification, and to review the modifications frequently to ensure they are administered consistent with current health and safety needs and are still necessary.</p> <p>More information about DHS’s HCBS rights-modification process can be found on Page 7 of the STP.</p> <p>One commenter wanted more information about how the rights-modification process will be implemented across the state.</p> <p>State response:</p> <p>We appreciate your comment. We have conducted training and provided information for lead agencies and providers. We notified people who receive services of the HCBS rule rights by mail. If a modification of a person’s right is required, the person will be informed by the case manager/care coordinator at the time of assessment, reassessment or when the need for a modification has been identified.</p> <p>DHS has developed the HCBS Rights Modification Support Plan Attachment, DHS-7176H (PDF) form, which can be filled out electronically or on paper. DHS also developed a Tutorial for the Home and Community Based Services Rights Modification Support Plan Attachment that is available on the Statewide Transition Plan webpage for training on-demand.</p>	<p>Plan modified</p>

VII. Topic: Systemic remediation	Plan modified?
<p>DHS has sent electronic notifications, including links to the HCBS Rights Modification Support Plan Attachment form and to the instructional video to all lead agencies and subscribers to the Aging and Adult Services Division and the Disability Services Division email lists.</p> <p>In addition to educating providers and lead agencies, DHS plans to focus on developing resources and providing outreach to people to better understand their rights.</p> <p>We have conducted in-person presentations about the HCBS Rights Modification Support Plan Attachment and instructional video at county, managed care and statewide conferences. We have also presented this information via webinar trainings and care coordinator trainings.</p> <p>Based on the feedback we received about the above trainings, DHS developed an HCBS settings rule rights modification FAQ webpage.</p> <p>One commenter asked how the rights-modification form will be made accessible to people from culturally specific communities.</p> <p>State response:</p> <p>We appreciate your comment. The HCBS Rights Modification Support Plan Attachment is part of and included in the person’s community support plan with the coordinated services and supports plan (CSSP). The CSSP, as required by DHS limited English proficiency policies, includes a DHS language block that includes the following information, “For accessible formats of this publication or assistance with additional equal access to human services, write to DHS.info@state.mn.us, call 866-267-7655, or use your preferred relay service.”</p> <p>One commenter asked how the effectiveness of the modifications will be measured over time and by whom and how established time limits for the modifications will be set.</p> <p>State response:</p> <p>Minnesota appreciates your comment. Each person is unique, so considerations for each person’s person-centered plan will be different, including the appropriate use of rights modifications. It is therefore vital to include the person in this process, solicit the person’s view of the benefits or success of an intervention and consider together an appropriate course of action. The person-centered planning team must consider what is a reasonable amount of time (e.g., week, month, year) to evaluate the effectiveness of an HCBS rights-modification plan, based on the individual circumstances. They must also weigh the risk, success and amount of time given for a response. The team must collect and document data about the use of positive interventions and supports, as well as less-intrusive methods of addressing the need before making or amending any modification. The person-centered planning team may need assistance from specific experts, such as a behaviorist or behavior specialist, to aid in the person-centered planning process (e.g., behavior analysis, crisis intervention plan). These considerations should be documented in the person-centered plan to support the determination of the rights-modification plan’s effectiveness. The team must review the modification regularly, at least annually, and should never become a “standing order” without time limitations. In addition,</p>	

VII. Topic: Systemic remediation	Plan modified?
the person-centered plan and HCBS Rights Modification Support Plan Attachment, DHS-7176H, must be finalized and agreed to in writing, based on the informed consent of the person.	
<p>Theme: Implementing the person’s experience assessment Two commenters seek clarification of “specific assessment.”</p> <p>State response: We appreciate your comments. DHS launched Phase I of the Long-Term Services and Supports (LTSS) Improvement Tool in fall 2017 as part of the MnCHOICES Support Plan application. Case managers and certified assessors will use it to gather feedback from older adults and people with disabilities who receive long-term services and supports. This feedback will help us to standardize measurements of quality and outcomes for HCBS recipients. More information about the person’s experience assessment may be found in the FAQs about the new LTSS Improvement Tool and the Corrected #18-25-04: Elderly Waiver Participants in Managed Care Provide Feedback About Certain HCBS Services. We added a link to the FAQs and the bulletin to Page 30 of the STP.</p>	Plan modified

VIII. Topic: Site specific assessment, validation and remediation	Plan modified?
<p>Theme: Measurement of compliance of each setting/site</p> <ul style="list-style-type: none"> • One commenter asked if there is a difference between “every setting” and “every site” in the STP. • One commenter expressed concern that the plan lacks detail in how we verified the supporting documentation during our desk audits. <p>State response: We appreciate your comments. The terms setting and site mean the same thing with regard to the provider-attestation process in the STP. The attestation and desk audit processes are the initial steps to assess and validate compliance for each HCBS setting in the scope of the transition plan. The STP states we “will use several strategies at the provider, lead agency and individual recipient levels to assure ongoing compliance with the home and community-based settings requirements” to validate ongoing HCBS rule compliance. Pages 68-74 of the STP provide more detail about these strategies.</p>	Plan not modified

IX. Topic: Presumed not to be HCBS	Plan modified?
<p>Theme: Public list of settings identified as presumed not HCBS</p> <p>One commenter recommended that we maintain a single list of settings deemed not community based as a resource for people who receive services, case managers and others who support them.</p> <p>State response:</p> <p>We appreciate your comment. A list of Prong 1 and Prong 2 settings can be found on the HCBS transition webpage. Evidentiary packages for prong 1, 2 and 3 settings will be posted for public comment both electronically and at the setting where people receive services before we submit them to CMS for heightened scrutiny.</p>	Plan modified
<p>Theme: Additional outreach to people who receive services</p> <p>One commenter recommended that we:</p> <ul style="list-style-type: none"> • Interview people in the settings presumed not to be HCBS. • Have a public comment period about settings that will go to CMS for heightened scrutiny. • Give notice to providers that DHS has determined will not be able to comply with the rule. <p>State response:</p> <p>We appreciate your comment. During our site visits, DHS interviews people who receive services (this interview is voluntary). We will announce our proposed submissions to CMS for heightened scrutiny publicly. To solicit public comment from people who receive services, we will post evidentiary packages at the setting where people receive services. DHS will seek public comment for 30 days about the state’s determination that the settings have overcome the institutional presumption. DHS will assist providers with any transitions needed to demonstrate that the setting meets the requirements of a home and community-based setting, as defined by the CMS rule. If the setting is unable to take the necessary steps to comply with the HCBS requirements, lead agencies will start the Person-Centered, Informed Choice and Transition Protocol (PDF) for people who receive services.</p>	Plan not modified
<p>Theme: Identifying settings that have the effect of isolating – Multiple settings share locations and operations</p> <p>One commenter asks (within the scope of Prong 3/Group 2) why settings that share staffing and programming raise more concern about the effect of isolating than settings that do not share staffing and programming.</p> <p>States response:</p>	

IX. Topic: Presumed not to be HCBS	Plan modified?
<p>We appreciate your comment. DHS used the Guidance on settings that have the effect of isolating individuals receiving HCBS from the broader community from CMS to identify settings that have the effect of isolating. In this guidance, CMS specifically lists examples of residential settings that typically have the effect of isolating people from the broader community, including “Multiple settings co-located and operationally related (i.e., operated and controlled by the same provider) that congregate a large number of people with disabilities together and provide for significant shared programming and staff, such that people’s ability to interact with the broader community is limited.</p>	
<p>Theme: Identifying settings that have the effect of isolating- Prong 3/Group 3 scope too narrow</p> <p>One commenter believes DHS’s approach to determining settings that have the effects of isolating is too narrow and limited. This commenter encourages DHS to consider including all provider-owned foster care and SLS settings that provide services exclusively to people with disabilities under Prong 3, Group 3.</p> <p>State response:</p> <p>We appreciate your comment. The state assessed all settings that group or cluster people with disabilities for the purpose of receiving HCBS for compliance with the HCBS rule.</p> <p>CMS also requires states to review large, congregate settings carefully to determine whether they are presumptively institutional and/or identify remediation required to comply with the rule. In addition to large, congregate settings (defined on Page 47 of the STP Prong 3/Group 3), CMS has identified the following settings as “typically isolating” in CMS’s Guidance on the Effects of Isolating:</p> <ul style="list-style-type: none"> • Disability-specific farm communities • Residential schools • Gated/secured communities • Multiple settings that share locations and operations • Settings where a combination of residential/day/medical services are provided at the same time <p>DHS has identified the above settings as Prong 3 settings that will be submitted to CMS for heightened scrutiny. DHS, however, will monitor all settings for ongoing compliance with the HCBS settings requirements using the following strategies:</p> <ul style="list-style-type: none"> • Lead agency assessment and support planning following the Person-centered, informed choice, transition protocol • DHS licensing and MHCP enrollment • Person-experience assessment and remediation for people via case management 	Plan not modified

IX. Topic: Presumed not to be HCBS	Plan modified?
<p>Theme: Effects of isolating criteria – Qualitative assessment</p> <p>One commenter expressed concern about the sufficiency of the criteria used to determine the effects of isolating for Prong 3/Group 3 settings. This commenter recommends more that we provide more detail about the qualitative assessment to ensure the practice is occurring.</p> <p>State response:</p> <p>We appreciate your comment. DHS is working one-on-one with providers to educate them about what information is expected for DHS to determine that a setting does not have the effects of isolating. DHS sent emails to providers to share examples of supporting documentation that demonstrates how:</p> <ul style="list-style-type: none"> • People are involved in planning community engagement opportunities • People have routine opportunities to participate in activities that take place in integrated community settings • People’s interests and preferences are supported individually and can be individualized to site-specific responses. <p>Some examples of sufficient documentation to demonstrate how interests and preferences at an individual level:</p> <ul style="list-style-type: none"> • People participate in volunteer activities each week, including newspaper delivery, Meals on Wheels, Feed my Starving Children and Animal Human Society. Each person is matched with a volunteer opportunity that best suits his or her interests. If a person is not interested in volunteer work, a variety of other community engagement opportunities are available to him or her. [Provider] also adopts parks during the summer. This is optional for people. Interactions occur naturally within the broader community. • We support people who attend AA meetings two to three times per week. We have people who attend high school sporting events of their choice, frequency and duration. We have people who attend church services of their choosing throughout the week. The activities calendar is posted prominently throughout the setting, with a schedule of community activities created from surveying residents, those shared by people and our local community calendar. Being a small town, all major community activities are within walking distance. If at any time, a person is unable to walk to a desired community activity of their choice, we offer a free ride for the person to participate in the activity. Being a city block away from the high school gymnasium helps people access high school sporting events of their choosing. We have an arrangement with the high school to permit our residents to receive a “free access” voucher to all sporting events (excluding football games). <p>We will monitor settings determined to not have the effect of isolating through ongoing licensing reviews and the person’s experience assessment processes to ensure HCBS requirements are being met.</p>	<p>Plan modified</p>

IX. Topic: Presumed not to be HCBS	Plan modified?
<p>Theme: Effects-of-isolating assessment criteria are too prescriptive</p> <p>Four commenters suggested that we remove quantitative criteria (i.e. monthly at minimum, no more than four people) from the effects-of-isolating assessment. The criteria are too prescriptive and do not reflect a person-centered philosophy.</p> <p>State response:</p> <p>We appreciate these comments. DHS removed quantitative criteria from the effects-of-isolating assessment on Page 48 of the STP. We will measure the effects-of-isolating criteria by how each setting describes person-centered planning and service delivery to each person.</p>	Plan modified
<p>Theme: Provider transition plans</p> <p>Two commenters recommended increasing the transition plan response time to 90 days to account for additional technical assistance needed for the transition-planning process.</p> <p>State response:</p> <p>We appreciate your comment. Providers have to develop an action plan within 60 days – they donot need to have transitioned within 60 days. DHS will grant exceptions to the 60-day timeline on a case-by-case basis.</p>	Plan modified

X. Topic: Residential tiered standards	Plan modified?
<p>Theme: Minnesota’s separation of housing from services</p> <p>One commenter recommended the transition plan acknowledge and maintain Minnesota’s longstanding policy to separate housing and services, which includes built-in protections and choices for tenants.</p> <p>State response:</p> <p>We appreciate your comment. DHS does require customized living services to be delivered in a registered housing with services establishment by an arranged home care. This relationship between the housing establishment and the service provider means that customized living is delivered in a provider-owned or -controlled residential setting as communicated on Page 26 of the STP in Table 4 “Services provided in provider-controlled settings that group people together.” Our systemic assessment showed Minnesota statutes governing housing with services establishments required revisions to comply fully with the HCBS rule. These revisions occurred during the 2017 legislative session.</p>	Plan not modified

X. Topic: Residential tiered standards	Plan modified?
<p>Theme: Rates for new Integrated Community Support service</p> <p>Three commenters expressed concern that DHS has not provided the details of integrated community support rates and payment structures.</p> <p>State response:</p> <p>We appreciate your comment. During the stakeholder-engagement process, DHS shared draft rate frameworks for discussion and review. Before the 2019 legislative session, DHS plans to share proposed integrated community supports draft legislative language that includes the proposed rate structure as discussed throughout the stakeholder-engagement process. The final rate structure is set by the state Legislature.</p>	Plan not modified
<p>Theme: Maintain customized living services for people younger than 55</p> <p>DHS received several comments that limitations on customized living for new people older than 55 and allowing the integrated community supports option for people 18-54 will:</p> <ul style="list-style-type: none"> • Create fewer choices and limit access for people who receive support through the BI and CADI waivers • Pose a barrier to meeting the needs of the population of people that have been receiving customized living services (i.e. nursing, mental health) <p>State response:</p> <p>We appreciate your comments. Developing more services will expand the array of services a person may choose to receive. People want to make informed choices that add to their quality of life. The supports and services a person receives should reflect this balance. Having a full array of service options will:</p> <ul style="list-style-type: none"> • Create more opportunities for people to be integrated and included in their communities • Simplify services to make it easier for people to make informed choices • Support flexible service delivery to meet changing needs of people who receive services <p>In developing alternative service options and aligning services to a person’s living arrangement, we developed a new service option, integrated community supports, for adults 18 and older. We developed integrated community supports with broad stakeholder engagement during a two-year process that included people with disabilities, families, advocates, trade associations, community providers, lead agencies and state agencies.</p>	Plan not modified

X. Topic: Residential tiered standards	Plan modified?
<p>In settings that deliver integrated community supports, people who receive services continue to have a choice of who provides services to them.</p> <ul style="list-style-type: none"> • People may choose to receive integrated community supports from the HCBS provider that controls the setting • People may receive other HCBS own-home services from a different HCBS provider to supplement integrated community supports in the same setting without needing to move <p>The original design of the customized living service was focused on supporting older adults by providing a package of individualized health-related and support services to a person in a congregate setting as part of the array of community service options. The customized living service will remain available service on the BI and CADI waivers. Existing customized living service settings – Tier 1 – that comply with the HCBS settings rule may continue to deliver customized living services to adults on the BI and CADI waivers. These Tier 1 customized living settings will follow existing customized living policy that historically contains a size and age limitation policy effective May 1, 2001. New customized living service settings – Tier 2 – that are developed after we implement tiered standards will be limited to serving people on the BI and CADI waivers who are 55 and older.</p> <p>DHS incorporated the age limit into Tier 2 of customized living because people with disabilities may have limited experiences and options on which to base decisions or to inform their choices. This age limit only applies to Tier 2 customized living settings; Tier 1 customized living settings may continue to deliver customized living services to adults on the BI and CADI waivers.</p>	
<p>Theme: Integrated community supports – Site-specific review</p> <p>DHS received several comments about conducting a site-specific review of a setting when 25 percent of its BI, CAC, CADI and DD waiver recipients use integrated community supports. Commenters expressed concern that the 25 percent trigger is an arbitrary requirement that adds additional complexity for providers to develop housing or programming.</p> <p>State response:</p> <p>We appreciate your comments. We are committed to supporting the needs and preferences of people within the requirements of the rule. The plan includes additional details about the 25 percent trigger for settings that may have the effects of isolating people with disabilities from the broader community. In the development of integrated community supports, we included design components (i.e. an HCBS rule site-specific review) to ensure provider-controlled settings can demonstrate they do not have effects of isolating people with disabilities from the broader community. Stakeholders were integral in developing integrated community supports and the site-specific review during the two-year stakeholder engagement process.</p> <p>To monitor for the HCBS rule’s effects-of-isolating criteria, we designed the HCBS rule site-specific review process in collaboration with stakeholders for settings that deliver integrated community support. The stakeholder group used the world-café design methodology to create the site-specific review process. The site-specific review incorporates information from lead agencies, people who receive services and providers. The review includes an ongoing monitoring strategy through the use of the person-experience assessment.</p> <p>When HCBS providers that control integrated community support settings serve 25 percent or more of people funded under the BI, CAC, CADI and DD waivers who receive integrated community supports, they must submit and receive approval of a HCBS rule site-specific</p>	Plan not modified

X. Topic: Residential tiered standards	Plan modified?
<p>review from DHS. Settings that serve fewer than 25 percent of people funded under the BI, CAC, CADI and DD waivers who receive integrated community supports in the HCBS provider-controlled units do not need to submit a site-specific review.</p> <p>The advantages to a site-specific review process for integrated community supports is to ensure the new setting can meet the HCBS rule requirements before the development process begins. The site-specific review process also allows growing settings to submit a site-specific review when the provider expects, or experiences, the number of people served in the setting will exceed 25 percent. DHS works with Minnesota’s Housing Finance Agency to provide technical assistance when a new setting identifies during its housing-development phase that it plans to deliver integrated community supports.</p>	

XI. Topic: Non-residential tiered standards	Plan modified?
<p>Theme: Employment support services</p> <p>One commenter seeks clarification of time-limited community-based group employment. Will “crew” employment or group employment be time-limited like prevocational services?</p> <p>States response:</p> <p>We appreciate your comment. We do not plan to time limit group or individual employment support services. The only change is that the services now have a maximum ratio of 1:6.</p>	Plan not modified
<p>Theme: Minnesota’s Employment First policy and informed choice</p> <p>One commenter expressed concern that Minnesota’s Employment First policy runs counter to the continued importance of person-centered planning. For example, the Employment First policy promotes the opportunity for people with disabilities to make informed choices about employment and the policy also views competitive, integrated employment as the first and preferred options for people with disabilities.</p> <p>State response:</p> <p>We appreciate your comment. We feel strongly that the Employment First policy and person-centered planning support one another. We know that the majority of Minnesotans who are unemployed want a job but lack a job goal in their service plans. The Employment First policy promotes the opportunity for people with disabilities to make informed choices about employment. It by no means requires people to choose to work competitively. At the core of person-centered planning is informed choice. None of us can make an informed choice about something without having had past experiences to draw upon or more than one choice to choose from. The state has created new employment services to provide people with those opportunities to explore the world of work without the risk of losing current services. The state also continues to create a number of alternative services for people to choose instead of working competitively based on their individual needs, wants and desires.</p>	Plan not modified

<p>Theme: Time limits on prevocational services</p> <p>Two commenters expressed concern that time limits on prevocational services will also limit options for people who may need (or want) them because of changing circumstances in their lives. These limits need to recognize the changing needs of people with disabilities across their lifespan and those who encounter barriers to employment at different points in their lives.</p> <p>State response:</p> <p>We appreciate your comment. Prevocational services are designed for people who are not expected to participate in the general workforce within one year. Prevocational services prepare people for competitive, integrated employment by teaching general work skills and concepts rather than specific work skills for a particular job. CMS requires prevocational services to be time-limited. With a great deal of stakeholder input, we determined that three years of service provides sufficient time to accomplish these skills. We understand that people encounter barriers to employment at different points in their lives. A number of employment service options are available to help someone successfully re-enter the workforce. Individualized person-centered planning can assist in determining which option is best suited for each person’s unique situation.</p>	<p>Plan not modified</p>
<p>Theme: Vocational rehabilitation memorandum of understanding and DHS’s new employment services</p> <p>One commenter expressed concern that the CBSM – VRS, IDEA and HCBS employment services – Interim guidance may have unintended consequences that slow our progress in making employment inclusion a reality for Minnesotans with significant disabilities.</p> <p>State response:</p> <p>We appreciate your comment. The Minnesota Department of Human Services and Department of Employment and Economic Development are working to develop an interagency agreement that will replace the existing interim guidance. In the meantime, the interim guidance is our best direction for providers as they begin to offer the new employment services, work with Vocational Rehabilitation Services and meet requirements of the Medicaid waiver services.</p>	<p>Plan not modified</p>

<p>Theme: Future modifications to the needs-determination process and service capacity limits for new day support services</p> <p>Three commenters sought clarification on how community access will be measured and how capacity will be determined with the new needs-determination process.</p> <p>State response:</p> <p>We appreciate your comments. This proposed needs-determination process will provide standards and requirements for approving or denying the development, expansion, modification, on-site size capacity changes, relocation, reduction and closure of congregate, facility-based and non-facility-based day service programs that provide services and support to people with disabilities. We will work with stakeholders to refine the process. Considerations for how we will identify capacity needs include:</p> <ul style="list-style-type: none"> • Lead agency requests for service expansion • DHS identification of service provider availability via data analytics • Identification of service development needs provided through MnCHOICES, person’s experience assessment and Minnesota’s HCBS Gaps Analysis. 	<p>Plan not modified</p>
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<p>XII. Topic: Ongoing setting compliance</p>	<p>Plan modified?</p>
<p>Theme: Guidance for new construction</p> <p>One commenter is concerned that the STP is silent on whether newly constructed settings are eligible to enroll as a waived services provider. The commenter recommended that DHS create an attestation process for new construction.</p> <p>State response:</p> <p>Minnesota appreciates your comment. In guidance from CMS on planned construction, CMS wrote, “a setting presumed to have the qualities of an institution cannot be determined to be compliant with the home and community-based setting regulatory requirements until it is operational and occupied by beneficiaries receiving services there.”</p> <p>New providers will be asked to attest to their compliance with the HCBS settings requirements when they enroll with DHS. More information about the process for new providers can be found on Page 68 of the STP.</p>	<p>Plan not modified</p>