

Department of Health Care Policy and Financing
 Community Living Office
 Home and Community Based Services (HCBS) Settings Rules

Feedback is received at: HCBS_Rules_Submission@state.co.us

Comment Number	Date Received	Time	Organization Name	Comment Synopsis	Response
1a	8/15/2014	10:50am	CMOLTC	Draft Transition Plan Action Item 4. Revisions to HCBS waiver applications and Colorado regulations: if at all possible we would like to suggest that a "home like" residential setting would include no sharing of bathrooms and individual rooms for residents. Each individual room should have at least a toilet and sink with bathing options perhaps being shared if required.	We are working with our Federal partners as well as all stakeholders to interpret new criteria and how settings will ultimately look under the new rule.
1b	8/18/2014	10:26am	CMOLTC	ACF residents should be given better education on who the Ombudsman is and how to contact them. For non-residential services, HCBS should continue to offer individualized service planning with the client's input and client's goals being emphasized. Clients should be encouraged to self direct their care as much as possible, or to select someone to assist them to direct their care. As far as the requirement for individuals to have full access to the greater community goes, there will need to be something done to address transportation limitations and to allow for staff or providers to accompany clients for activities other than laundry or shopping – perhaps some sort of recreational or social activity benefit where a provider could take someone to church, or BINGO or other community activity to meet their social needs and reduce isolation.	We agree, and the Department is committed to full community integration with a person-centered approach while still protecting client rights. Part of this process will be to examine all of the various options to ensure client protection and choice.
2	8/19/2014	4:03pm	Susan Mooney	Request for waiver documents to be sent to individual	Emailed individual link with the new location of waiver documents and transition plan documents on the website.
3a	8/24/2014	1:35pm	Julie Reiskin, CCDC	CCDC briefly reviewed the proposed transition plan. We are assuming that this is a first draft as there are many details still missing. The plan also appears to be implemented already as there were tasks starting months ago. CCDC applauds the department for being proactive and embracing these important and positive changes from CMS. A few suggestions:	Yes, this is the first draft of the transition plan and more details will be forthcoming, as a result of stakeholder input.

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3b	8/24/2014	1:35pm	Julie Reiskin, CCDC	1) This is supposed to be about bringing 1915 c and i into compliance and I did not see anything about i. Overall there should be more focus on moving Colorado to a consumer directed model and creating a way to provide support to those that will need help to self direct effectively. For those that will not be able to direct 100% then a process by which one can control some aspects of services should be developed.	This transition plan addresses all waiver settings regardless of waiver type or model of service delivery and the Department is committed to meeting all CMS guidelines.
3c	8/24/2014	1:35pm	Julie Reiskin, CCDC	2) If groups are expected to participate in various aspects that communication should be clear. I am a leader in the PDPPC group which is mentioned throughout. I think inclusion of PDPPC is appropriate, but leadership of this group needs to be notified so we can adjust our workflow accordingly and be prepared to give thoughtful input as requested.	The Department is committed to including all stakeholders. While the specific work load is not yet clear for individual work groups, level of stakeholder participation is based upon preference. The Department will provide adequate notice to allow for full participation of interested stakeholders.
3d	8/24/2014	1:35pm	Julie Reiskin, CCDC	3) I would be interested to know how HCPF decided which groups needed to be included and not included. I was pleased to see "Arcs" and Family Voices but noted few other advocacy organizations such as CCDC, Colorado Legal Services and Independent Living Centers. I am not sure that any of these organizations, including CCDC, has capacity for new projects but was curious about how this was determined and what the time commitment is for various stakeholder work. I am also wondering if expectations were communicated before groups were added as stakeholders.	The Department is committed to including all stakeholders. The list is not exhaustive and the Department will continue to update this list as needed. While the specific work load is not yet clear for individual work groups, level of stakeholder participation is based upon individual agency preference.
3e	8/24/2014	1:35pm	Julie Reiskin, CCDC	4) Some legal advocacy group such as Colorado Legal Services should receive a contract to help with the evaluation of leases. Most if not all facilities will have access to corporate counsel and our clients need protection as leases are developed. We should also outline who will enforce lease violations (dumping). Will this be the ombudsman or does that now go directly to court?	The Department is committed to full community integration with a person-centered approach while still protecting client rights. Part of this process will be to examine all of the various options to ensure client protection.
3f	8/24/2014	1:35pm	Julie Reiskin, CCDC	5) I would also survey clients in the phase two --facilities may be representing that they are allowing full time access to food or giving choices for roommates but unless clients verify this the department should not assume it is real. Anyone can clean up for a survey.	The Department is developing the survey process to verify provider compliance and is committed to including client input and experiences.
3g	8/24/2014	1:35pm	Julie Reiskin, CCDC	6) There seems to be a large and very diverse (and somewhat diffuse) group that are identified as "stakeholders" with numerous responsibilities. There is a lot of work to be done and using stakeholders is important and needs to be done in an organized and effective manner or it will end up causing a lot of work for HCPF with maximum frustration and minimum gain. However if properly managed it can be very effective. CCDC advises that if HCPF chooses to bring in an outside consultant that you make the contract explicit and ask someone to help you select the right contractor.	The Department agrees to the importance of appropriately organizing and managing all facets of the transition plan. Accordingly the Department will take the steps necessary to ensure this happens effectively.
3h	8/24/2014	1:35pm	Julie Reiskin, CCDC	HCPF may want to create an overarching steering committee with subcommittees. Examples of subcommittees could include: a) Lease (evaluate criteria for leases, train regulatory staff on leases, develop sample leases, develop client materials re what is a lease and how to enforce) b) Privacy (detail what privacy looks like in a setting with numerous clients, identify when it may be acceptable to facility to no allow clients to lock door and what procedures should be required before taking away that right, develop client facing materials, and training for regulators) This group could also deal with roommate and visitor issues. c) Home-like --(what does this mean, how does food choice and food access fit in without financial control over what is bought, how do we assure clients part of menu planning, how can we support folks to decorate space, etc. Develop client materials and regulator training). Embedding consumer direction should be under the PDPPC but that group will need additional staff support to be effective.	As part of the process the Department will work closely with stakeholders in many different areas. One particular focus will be groups or committees tasked with specific objectives and goals in meeting the new rule criteria. As this planning process proceeds, input will be gathered as to the nature of these groups. It is the Department's expectation that there will be considerable overlap in what CCDC has suggested and what is discussed in these groups.

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3i	8/24/2014	1:35pm	Julie Reiskin, CCDC	7) It may be premature but enforcement will be important, this is a very big change for ACF and they need to understand this is serious and not business as usual.	The Department understands the significance of this change for many of our provider types and will have a robust education and training component to meet new rule criteria.
3j	8/24/2014	1:35pm	Julie Reiskin, CCDC	8) There are many training areas where the trainers appear to be HCPF and CDPHE. CCDC suggests that you use stakeholders to help with training and implement a strong evaluation component.	The Department agrees with, and commits to, the need for comprehensive education and training components. Additionally, the Department believes strongly in stakeholder involvement during this process and will examine how best to implement these elements into the overall process.
4a	8/28/2014	3:02pm	LeadingAge Colorado	Reach out to providers and provider associations to increase the understanding of the rule and maintain open lines of communication Comment #1: Adult Day Programs and the Ombudsman Program not mentioned as stakeholders. In addition, LeadingAge Colorado is a provider association representing senior living and care providers, including assisted living and adult day providers and should be included as a stakeholder.	LeadingAge Colorado will be added to the stakeholder list. The Department is committed to including all stakeholders. The list of stakeholders was not exhaustive and the Department will continue to update this list as needed.
4b	8/28/2014	3:02pm	LeadingAge Colorado	Develop and issue required public notices. Collect comments and summarize for incorporation in the transition plan and within communication tools (e.g. FAQs) Comment: Please see Comment #1	The Department agrees with, and commits to, the need for comprehensive education and training components. Additionally the Department believes strongly in stakeholder involvement during this process and will examine how to best implement these elements into the overall process. Part of this process will include clear Fact Sheets and Frequently Asked Questions materials.
4c	8/28/2014	3:02pm	LeadingAge Colorado	Develop and update on a regular basis an external stakeholder communication plan Comment: Please see Comment #1.	The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan, the Department will create a plan for clear and routine communication with all providers impacted by the rule change.
4d	8/28/2014	3:02pm	LeadingAge Colorado	Conduct a review of Colorado regulations and supporting documents across the 7 waiver programs with residential and non-residential settings Comment #2: did the review include all Colorado regulations including licensing regulations, i.e. not just the certification regulation? Is the report outlining recommendations going to be shared with stakeholders?	The initial review included all relevant licensing and certification regulations. This was a macro-level review and requires considerable more work to finalize recommendations. When recommendations are finalized, the Department will share all findings with stakeholders and will work with them to ensure proper implementation without undue burden on clients or providers.
4e	8/28/2014	3:02pm	LeadingAge Colorado	Level 1 macro review of provider settings (surveying of existing providers). Comment #3: Aren't the providers considered stakeholders? Will HCPF be sharing results of the provider setting self-assessment survey (Level 1 macro)?	The Department is currently reviewing the macro-level provider setting self-assessment survey, and will share the finding with all stakeholders, which includes providers, as soon as they are finalized.

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4f	8/28/2014	3:02pm	LeadingAge Colorado	Level 2 micro review of provider settings based on the results of Level 1 (site visit to verify survey data). Comment 34: HCPF staff mentioned a poor response rate for the first survey (Level 1 macro)- How will HCPF approach providers that did not respond to self assessment survey (Level 1 macro). Will HCPF share any information about the site visits and verification process? How will they determine who they will visit? Who will do the visits?	The Department is still evaluating the response in the macro-level provider setting self-assessment survey (survey). There were enough responses to create a picture of what settings currently look like in the state. This picture will inform the Department on its next steps. The Department will share findings and the plan for onsite visits, along with who will conduct them as soon as they are finalized. The Department believes in a transparent process as it works with stakeholders to implement the new HCBS service setting rules, and will communicate with stakeholders as soon as information is finalized.
4g	8/28/2014	3:02pm	LeadingAge Colorado	Develop a survey for individuals and families to provide input on settings by type and location. Comment #5: We recommend involving individuals/families/advocates in the development of survey tool regarding input on the settings by type and location to improve your response rate and verify relevance of questions in the survey. Member feedback on Level 1 survey (of providers) included: too long, not relevant to providers serving clients with dementia, didn't appear to understand adult day programs serving elderly clients by (but) rather slanted toward those that serve DD population.	The Department is reviewing potential plans for follow-up surveys to continue to gather all relevant data. The Department will include individuals, families and advocates in the creation of this of follow up tools the Department will use to gather further data on current service settings.
4h	8/28/2014	3:02pm	LeadingAge Colorado	prepare a list of settings that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings Colorado chooses to submit under CMS heightened scrutiny. Comment: Please see Comment #1.	The initial review was a macro-level view and requires considerably more work to complete recommendations and understand needed changes. When these are finalized the Department will share all findings with stakeholders and commit to working with them, ensuring proper implementation without undue burden.
4i	8/28/2014	3:02pm	LeadingAge Colorado	Incorporate the outcomes of the assessment of setting within existing licensure and certification processes to identify existing settings as well as potential new setting in development that may not meet the requirements of the rule. Comment: Please see Comment #1.	The initial review was a macro-level view and requires considerable more work to complete recommendations and understand needed changes. When these are finalized the Department will share all findings with stakeholders and commit to working with them, ensuring proper implementation without undue burden.
4j	8/28/2014	3:02pm	LeadingAge Colorado	Work with the Division of Housing to develop template leases, written agreements or addendums to support providers in documenting protections and appeals comparable to those provided under Colorado Landlord tenant law. Ensure written language describes the required environment to comply such as locked doors and use of common areas. Comment #6: ALR rules may need to be amended to be consistent template leases or resident agreements. Also, please see Comment #1.	When the recommendations are finalized the Department will share all findings with stakeholders and commit to working with them, ensuring proper implementation without undue burden.
4k	8/28/2014	3:02pm	LeadingAge Colorado	Analyze and include additional requirements to certification standards, processes and frequency of review in order to comply with the new HCBS settings rule. Comment: Please see Comment #1.	The initial review was a macro-level view and requires considerable more work to complete recommendations and understand needed changes. When these are finalized the Department will absolutely share all findings with stakeholders and commit to working with them, ensuring proper implementation without undue burden.

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4l	8/28/2014	3:02pm	LeadingAge Colorado	Strengthen enrollment and re-enrollment procedures to identify settings that may have indicators of non-compliance and require more thorough review. Comment: Please see Comment #1.	The Department is committed to full community integration with a person-centered approach while still protecting client rights. This approach will include provider enrollment and re-enrollment procedures and examining all of the various setting options to ensure client protection and access to services. As part of this particular plan, the Department recognizes the need for clear and continuous communication with all providers impacted by the rule change.
4m	8/28/2014	3:02pm	LeadingAge Colorado	Strengthen language within enrollment and re-enrollment sections of the waivers and regulations to support person centered principles, a review of "informed" choices and decision-making across the settings requirements including the process for mitigating any restrictions in rights. Comment: Please see Comment #1.	The Department is committed to full community integration with a person-centered approach while still protecting client rights. As part of this approach the Department will examine all of the various setting options to ensure client protection and access to services. As part of this particular plan, the Department recognizes the need for clear and continuous communication with all stakeholder groups impacted by the rule change.
4n	8/28/2014	3:02pm	LeadingAge Colorado	Explore all waivers and potentially add participant rights within regulations consistent across all programs when applicable. Comment: Please see Comment #1.	The Department is committed to full community integration with a person-centered approach while still protecting client rights. This approach will include enrollment and re-enrollment procedures and examining all of the various options to ensure client protection and access to services. As part of this particular plan, the Department recognizes the need for clear and continuous communication with all providers impacted by the rule change.
4o	8/28/2014	3:02pm	LeadingAge Colorado	Expand community integration opportunities for participants using adult day health and include desired outcomes and required provision within regulations Comment #7: We are confused by exclusive use of the term "adult day health"- what about the Adult Day programs (Basic and Specialized) that are funded under the EBD waiver? Also, please see Comment #1.	The Department's usage of the term Adult Day Health was intended to be Adult Day Services. This change has since been made to the transition plan. As previously indicated, the Department intends on including all willing partners in this endeavor.
4p	8/28/2014	3:02pm	LeadingAge Colorado	Group Residential Services and Supports (GRSS) encompasses group living environments of 4 to 8 participants. Although residential habilitation is described as "home-like", large settings have the effect of "isolating". Modify policy related to larger facilities to be more like IRSS. Comment #8: We do not understand this action item- to what policy are you referring- will it pertain to larger ACFs? Also, please see Comment #1.	This particular entry within the transition plan addresses settings within the I/DD waivers. The new criteria regarding Home and Community Based Services intends to ensure individuals have full access to the community and a range of living options. The Department will work with all partners during this process to ensure a smooth transition to meeting these rules.
4q	8/28/2014	3:02pm	LeadingAge Colorado	Conduct a webinar series to highlight the settings requirements (residential, non-residential, adults, children) and principles of person-centered planning. Comment: Please see Comment #1.	The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to include webinars to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change.
4r	8/28/2014	3:02pm	LeadingAge Colorado	Develop a provider score card. Comment #9: how will this be used- what are the consequences of a poor score? Is the score card shared with the provider? From where would you pull information? Will providers have an opportunity to comment on or be involved in the development of a score card?	The Department's implementation of the score card is in the early phase of development. We intend on providing ample opportunity for involvement in the development process from all stakeholders who are interested in participating in the future.

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4s	8/28/2014	3:02pm	LeadingAge Colorado	Monitor data from Quality of Life and NCI related outcomes (e.g. opportunities for "informed" choice, choice of roommate and setting, freedom for coercion). Comment #10: Where does this data come from? Is this a reporting system already in place? How is information obtained from clients and who gathers it? How is it shared with providers and how will it be used/consequences?	The National Core Indicators (NCI), is a national organization that is working with Colorado to gather data on service delivery for waiver members in the Supportive Living (SLS) waiver and the Developmental Disability (DD) waiver. Colorado has just completed the first round of data collection through survey and face to face interviews, with waiver members, and is awaiting the results from NCI. The Department will work with stakeholders throughout the process to understand how to use this data once it is available.
4t	8/28/2014	3:02pm	LeadingAge Colorado	Monitor person-centered planning and integrated employment requirements through routine review of data to measure effectiveness of supports Comment: Please see Comment #10.	The Department is still developing and identifying data collection practices as it relates to the new HCBS Service Setting rules. The Department believes that this data will inform how to best support service providers in implementing the new rules, and will continue to engage with Stakeholders in the development of these strategies.
4u	8/28/2014	3:02pm	LeadingAge Colorado	Develop a process for helping individuals to transition to new settings as appropriate. Comment: Please see Comment #1.	The Department is committed to full community integration with a person-centered approach while still protecting client rights. This approach will include transition plans and will examine all of the various settings to ensure client protection and access to services.
5a	8/29/2014	5:02pm	Hanni Raley The Arc of Aurora	Setting Changes Impacting Individuals with Disabilities the final rule creates a single definition of home and community based settings which prioritize Individual Choice before that of the Agency, inclusive of basic human rights such as privacy, dignity, respect, and freedom from coercion and restraint. Ultimately the final rule steers community members toward person-Centered Service Plans. All people want and deserve Choice, as they personally define it. Individual Choice recognizes that people have opinions and is an implicit human right. When people with disabilities have choice and control over services and the dollars spent, it doesn't cost more in the long-term but it does build a culture of true participant direction	The Department's implementation of the score card is still in the early phases of development. The Department recognizes that the new HCBS rules are significant changes for providers and waiver members. The Department is developing a plan to ensure that implementation is taken seriously and is achieved across all service settings.
5b	8/29/2014	5:02pm	Hanni Raley The Arc of Aurora	Specific Areas the Department of health Care Policy & Financing must consider Change Agents and Culture: Many Providers and OHCDS' use loopholes and semantics to attempt to create the illusion that their services and supports are compliant with the final rule. As defined, Person Centered planning focuses on preferences, strengths, capacities, needs, and desired outcomes or goals expressed by the person including a planning process, regardless of the service delivery type that must include an interactive process that supports and enhances the individual's stated preferences. Any discussion related to a person-centered approach should utilize the values of self-determination. Given the historical non-compliance of Provider Agencies, what steps will the Department take to ensure real culture change in community settings given that the delivery of services will be managed and provided by the same actors?	The Department is developing plans to ensure needed cultural changes occur and a person-centered approach is adopted and implemented throughout the waiver system in regards to community settings. The Department will include stakeholder input throughout this process to ensure all values, including self-determination are considered. Outcomes will be measured using survey tools such as the National Core Indicators.
5c	8/29/2014	5:02pm	Hanni Raley The Arc of Aurora	Compliance: offering Individual Control over scheduling, visitors, roommates, privacy and how they choose to live is a necessary step for individual's to truly steer services and supports. However, most people with disabilities who are victims do not report when their rights are withheld due to futility, fear, and lack of information. Rules without consequences are little more than advice. Provider "scorecards" should be publicized and offer an opportunity for the community to provide input. How will the Department ensure compliance of the final rule and educate individuals of their "new rights" and responsibilities?	The Department's implementation of the score card is still in the early phases of development. The Department recognizes that the new HCBS rules are significant changes for providers and waiver members. The Department will involve stakeholders in developing a plan to ensure that implementation is taken seriously.

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5d	8/29/2014	5:02pm	Hanni Raley The Arc of Aurora	Retaliation: Statistically, the majority of people with Intellectual and developmental disabilities experience high rates of crime and often have difficulty identifying when to be compliant and when to assert themselves. As a result, they may be victimized both when they comply too easily and when their refusal to comply provokes retaliation. How will the Department ensure people with Disabilities will not be retaliated against when exercising their rights are in direct conflict to the will of the Agency?	Ensuring individual rights of waiver members is at the forefront of the Departments' priorities. The Department will continue to implement the person-centered approach as one avenue in mitigating retaliation and to ensure that all wavier member's rights are protected. The Department will make this an ongoing priority and part of the planning and implementation process. The Department well engage waiver clients, advocates, providers, and all stakeholders in this process to ensure that waiver clients' rights are protected, and there are safeguards to protect waiver clients from retaliation.
5e	8/29/2014	5:02pm	Hanni Raley The Arc of Aurora	Protections: CMS' final rule includes language around tenant rights and legally binding agreements between the Provider and an Individual. In many situations, an Individual has NO tenant rights due to a Provider/Landlord agreement which removes the Individual from leasing proves and the legal guarantees it affords such as due process, fair treatment, notice to vacate, notice for entrance, etc. Additionally, the rule offers a deviation justification for individuals to have "modified rights". Given the support needs of many individuals receiving HCBS services, how will the Department ensure an individual is able to consent to legally binding documents and suspension of rights?	The Department is committed to person-center planning, which helps to ensure wavier clients' choice is honored. The Department is dedicated to ensuring waiver clients understand their choices and will utilize the person-center approach to ensure that those choices are honored and consent is legally given. The Department is waiting for further guidance from the Centers for Medicare and Medicaid Services (CMS). The Department will continue to use legally binding documents such as informed consent and leasing, as well as explore other processes. The Department will also review the current rule, conduct a system wide training with provider and case management agencies, and include in surveys for compliance. The Department will also solicit stakeholder input into housing issues as we define person-centered planning.
5f	8/29/2014	5:02pm	Hanni Raley The Arc of Aurora	Public input: Key Stakeholders already defined in the Transition Draft include many Advocacy related Organizations, Service Providers, and Community Supports. However true Constituents, those whose personal life is affected by the outcome of policies, programs, rules, etc., all impacting services and supports are not listed. Families and individuals with Disabilities must be at the table. Stakeholders are paid representatives of Organizations, representing their agency's mission which may or may not conflict with the role and intention of the final rule. The voices of those actually receiving services are paramount and must be prioritized, beyond a rubber stamp. People with Disabilities have a lot to say about a lot of this. Real and meaningful community engagement must include more than one person and more than one disability. Constituents must be given the role and power to steer upcoming changes to ensure true culture change. How will the Department ensure the right people are the right table?	The Department is committed to including all stakeholders. It should be noted that the stakeholders identified in the transition plan were not an exhaustive list, the Department will continue to update this list as needed. The Department will solicit participation from all stakeholders, work groups will be representative of all stakeholder groups.
6a	9/7/2014	10:37p m	Blair Wyles Founder of Rooster Ranch Inc.	I am writing on behalf of individuals with I/DD, their families, and their service providers regarding the impact of the transition plan on an affordable housing opportunity that is currently being planned, Rooster Ranch. Many of the future residents of Rooster Ranch rely on waiver funding for long term support services, therefore we would like to continue discussions with the CO Department of Health Care Policy & Financing to ensure those who choose to live at Rooster Ranch will continue to be supported through their HCBS waivers from providers of their choice.	The Department will have a robust education and training component to meet the new rule criteria. As part of this plan, the Department will provide clear and routine communication and engagement with all providers, waiver members and families impacted by the rule change.

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6b	9/8/2014	10:37p m	Blair Wyles Founder of Rooster Ranch Inc.	Stakeholder engagement and oversight: <ul style="list-style-type: none"> o Local affordable housing solutions are being planned by public--private partnerships and groups of families who are not service providers, thus it is imperative that access to new HCBS information and notice of public comments should be easily visible and accessed from the homepage of the CO Department of Health Care Policy & Financing as any stakeholders may not be part of your current email listservs. We heard about the HCBS Final Rule and subsequent public comment periods from the Coalition for Community Choice, a national coalition of emerging and existing housing opportunities for those with I/DD who have come together to share best practices. o Please include Rooster Ranch within the external stakeholder communication plan. 	The Department is committed to including all stakeholders. The list of stakeholders in the transition plan was not exhaustive and the Department will continually update this list as needed. Rooster Ranch has been added. While the specific work load is not yet clear for individual work groups, level of stakeholder participation is based upon individual agency preference. The Department will provide appropriate space on the website to post an updated transition plan and any communication or information.
6c	9/9/2014	10:37p m	Blair Wyles Founder of Rooster Ranch Inc.	<ul style="list-style-type: none"> ● Infrastructure: o Rooster Ranch applauds the outcome--oriented criteria of the HCBS Final Rule and will fully comply with all CMS 2249--F /2296--F regulations. We urge CO policymakers not to include further restrictive criteria, and to encourage and allow for expanding market--driven housing options that would provide individuals with I/DD more choices of home and community that are accessible and affordable. 	The Department is committed ensuring that waiver members have the greatest number of choices possible by following a person-centered approach. The Department is planning and developing what residential settings will look like under the new Federal rule. The Department will engage with stakeholders in this process to ensure that all residential setting are committed to full community integration.
6d	9/10/2014	10:37p m	Blair Wyles Founder of Rooster Ranch Inc.	o We would like to request to be part of the stakeholder group that will discuss the strengthening of enrollment, re-enrollment, and person--centered planning process sections of waivers and regulations.	The Department will routinely, communicate with all stakeholders including Rooster Ranch Inc. regarding opportunities to participate in stakeholder groups.
6e	9/11/2014	10:37p m	Blair Wyles Founder of Rooster Ranch Inc.	o It is incorrect to assume that larger settings have the effect of isolating. Isolation is the absence of voluntary reciprocal relationships, lacking a sense of meaning and/or purpose, and the painful void of not being valued as contributing members of a community. Isolation can occur in any size setting, thus policy and assessment of ALL settings is needed to ensure waiver recipients are living in a home and community that upholds their voice as authority for their self--determined life choices , and are indeed providing the supports outlined in their person-centered plan.	With Stakeholder input, the Department will develop the widest array of choice in residential setting possible within the regulatory and financial constraints.
6f	9/12/2014	10:37p m	Blair Wyles Founder of Rooster Ranch Inc.	As a parent of a young adult with autism who has very high support needs, I am extremely concerned for his future when I can no longer be his primary caregiver. According to the 2013 State of State of Developmental Disabilities, there are over 80,000 individuals with I/DD living in Colorado. 73% live in their family home with over 12,000 living with a caregiver over the age of 60. In the 17 years between 1994--2011, less than 4,500 more individuals were supported outside of their family home. Is a statewide affordable housing and long--term support needs assessment of this population being planned as important decisions concerning regulations and policy continue to be made? Thank you for your commitment to ensuring a more sustainable and empowering future for the those with I/DD. We look forward to discussing the opportunity to provide more affordable housing options within a supportive intentional community.	The Department has added Rooster Ranch to the stakeholder list to receive communications. The Department is awaiting further guidance for CMS pertaining to specific settings under the new service settings rules. We will continue to collaborate and coordinate with our stakeholder as this process unfolds. The needs assessment process has not been developed yet. Stakeholders will be involved in its development.
7a	9/9/2014	9:27am	Jennifer Crosbie Seniorlink	Caregiver Homes, a division of Seniorlink offering an opportunity to inform the Department about an innovative and comprehensive model of care that called is Structured Family Caregiving. This model, utilized in multiple states, supports elders and consumers with disabilities to live independently in their homes, a "setting" that fully meets the regulatory intent and compliance expectations of the HCBS Final Rule published by the Department of health and Human Services. Making this service available in Colorado would help to continue Colorado's efforts to support consumers' independence by offering a person-centered model of care in homes chosen by those consumers. Care giver Homes supports adults of all ages who have significant need for assistance with personal care, such as bathing, ambulating, and toileting, and complex behavioral and medical conditions. Requesting to be added to Department communications.	The Department will add Seniorlink to the stakeholder list to receive communications. The Department will also look at this option moving forward with our transition plan.

Department of Health Care Policy and Financing
Community Living Office
Home and Community Based Services (HCBS) Settings Rules

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Comment Number	Date Received	Time	Organization Name	Comment Synopsis	Response
8a	9/9/2014	1:59pm	AARP	<p>AARP Colorado is writing today to comment on the Colorado Department of Health Care Policy's (CDHCP) Home and Community Based Services (HCBS) Transition Plan on the Centers for Medicare and Medicaid Services' (CMS) Final Rule (CMS 2249-F and CMS 2296-F). We are glad to see that CDHCP is moving forward to implement CMS' HCBS Settings rule, which will help ensure that Colorado residents who receive Long-Term Services and Supports (LTSS) through the state can have full access to the benefits of community living and receive services in the most integrated settings. This step forward will allow Colorado to comply with new standards in CMS's final rule and augment the state's HCBS programs.</p> <p>AARP is very familiar with efforts to promote HCBS options in Medicaid and ensure that necessary services are available to allow people to age in their homes and communities, especially among seniors who often have less access to HCBS than other populations. AARP has long advocated for improvements to the quality of LTSS services, breaking down barriers to access, and developing better coordination and integration of LTSS with other services. Certainly, Colorado has made progress over the years to rebalance its Medicaid LTSS spending towards HCBS. Yet, more work can be done to modify the state's Medicaid waivers and state plan options that continue to shift HCBS funding to services in settings that are home and community based in nature.</p>	The Department will continue to work towards solutions that broaden client choice and service setting options for all residents of Colorado. We look forward to a positive working relationship with all of our stakeholders.
8b	9/9/2014	1:59pm	AARP	<p>Colorado's transitional plan sets forth a number of key steps toward the ultimate goal of full integration of CMS' rule into state policy. As noted in the CDHCP Fact Sheet, this "proposed transitional plan outlines the Department's process and timelines for working with clients, stakeholders, providers, and other interested parties to implement these necessary changes." We agree that the plan does outline, at the broadest level, the timelines around certain activities and some of the groups involved in the process. However, this plan lacks significant details regarding the proposed outcomes of the activities, the full range of stakeholders involved in the transition, how the activities will impact both older adults and disabled populations, and specific timelines with benchmarks. We believe that a future, more detailed, and final transitional plan should be issued in order to break down how the state will implement these important principles in the proposed transition plan.</p>	The initial review was a macro-level view and requires considerably more work to finalize recommendations and understand needed changes. The Department will work with all willing stakeholders and partners to ensure a more detailed plan is presented that allows for clear expectations of meeting new rule criteria.
9b	9/10/2014	2:00pm	Susan Mooney Tall Tales Ranch	<ul style="list-style-type: none"> • Stakeholder engagement and oversight: <ul style="list-style-type: none"> o Local affordable housing solutions are being planned by public-private partnerships and groups of families who are not service providers, thus it is imperative that access to new HCBS information and notice of public comments should be easily visible and accessed from the homepage of the CO Department of Health Care Policy & Financing- as many stakeholders may not be part of your current email listservs. We heard about the HCBS Final Rule and subsequent public comment periods from the Coalition for Community Choice, a national coalition of emerging and existing housing opportunities for those with I/DD who have come together to share best practices. o Please include Tall Tales Ranch within the external stakeholder communication plan. 	The Department is committed to including all stakeholders. It should be noted that the list was by no means exhaustive and there are plans to update this list as needed. The Department will add Tall Tales Ranch in future stakeholder communications.
9b	9/10/2014	2:00pm	Susan Mooney Tall Tales Ranch	<ul style="list-style-type: none"> • Infrastructure: <ul style="list-style-type: none"> o Tall Tales Ranch applauds the outcome-oriented criteria of the HCBS Final Rule and will fully comply with all CMS 2249-F /2296-F regulations. We urge CO policymakers not to include further restrictive criteria, and to encourage and allow for expanding market-driven housing options that would provide individuals with I/DD more choices of home and community that are accessible, affordable and innovative. 	The Department is committed to ensuring that waiver clients have the greatest number of choices possible by following a person-centered approach. The Department is planning and developing what residential settings will look like under the new Federal rule. The Department will engage with stakeholders in this process to ensure that all residential settings are committed to full community integration.
9c	9/10/2014	2:00pm	Susan Mooney Tall Tales Ranch	<ul style="list-style-type: none"> o We would like to request to be part of the stakeholder group that will discuss the strengthening of enrollment, re-enrollment, and person-centered planning process sections of waivers and regulations. 	The Department will routinely, communicate with all stakeholders including Tall Tales Ranch regarding opportunities to participate in stakeholder groups.

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9d	9/10/2014	2:00pm	Susan Mooney Tall Tales Ranch	o It is incorrect to assume that larger settings have the effect of isolating. It is also a fallacy to believe that proximity creates community. By offering the option of varying types of living situations (urban, rural, etc.), a genuine opportunity to provide person centered alternatives exists. Policy and assessment of ALL settings is needed to ensure waiver recipients are living in a home and community that upholds their voice as authority for their self-determined life choices , and are indeed providing the supports outlined in their person-centered plan.	The Department is developing a definition for residential settings that provides the widest array of choice within federal guidelines. Full stakeholder input will be solicited and considered in this process.
9e	9/10/2014	2:00pm	Susan Mooney Tall Tales Ranch	As a parent of a young man with an acquired brain injury, I am extremely concerned for his future when I can no longer be his primary caregiver. I want for him to live a life, in a setting, that offers not only safety and security; but one that also honors his individuality. According to the 2013 State of State of Developmental Disabilities, there are over 80,000 individuals with I/DD living in Colorado. 73% live in their family home with over 12,000 living with a caregiver over the age of 60. In the 17 years between 1994-2011, less than 4,500 more individuals were supported outside of their family home. Is a statewide affordable housing and long-term support needs assessment of this population being planned as important decisions concerning regulations and policy continue to be made?	The Department is developing a plan of how to asses the current level and access to affordable housing in the state. The Department will solicit stakeholders input in this process.
10a	9/10/2014	4:18pm	Alliance	Alliance supports the general goals of the new CMS final rule, including increased choice and full access to the community, and recognize its alignment with Colorado's history of community-based supports and services. As we move toward implementing these new requirements, we expect that providers will incur additional expenses and we urge the state to take the fiscal impact into account. We hope to see additional resources available to allow providers to fully implement the range of community options articulated in the rule and ensure continuity in services for HCBS participants.	The Department will continue to work towards solutions that broaden client choice and service setting options for all residents of Colorado. We look forward to a positive working relationship with all of our stakeholders.
10b	9/10/2014	4:18pm	Alliance	While not specifically addressed in the transition plan, there has been some confusion regarding the dates by which Colorado's waivers must comply with the final rule. For instance, there is some question about the impact of the technical change required for Colorado's HCBS-EBD (Elderly, Blind and Disabled) waiver. While Colorado's waivers serving the I/DD population (HCBS-DD, HCBS-SLS and HCBS-CES) were renewed prior to the effective date of the rule, there is confusion as to the timeline for those waivers to come into compliance if similar technical amendments were required during the period of Colorado's transition plan. We request clarification on this issue.	The final rule was effective March 17, 2014 with a mandate from the Centers for Medicare and Medicaid Services to have a transition plan submitted by March 17, 2015. All states must be in compliance with the entire rule within five years. The redesigned adult waiver for individuals with intellectual and developmental disabilities, with estimated effective date of July 16, 2016, must be in compliance with the new regulations.
10c	9/10/2014	4:18pm	Alliance	We understand that additional guidance will be forthcoming from CMS on the final rule's application to non-residential settings such as day habilitation and employment services. It is unclear how these settings will be addressed in the transition plan without this additional guidance from CMS.	Sequencing for implementation will align with CMS guidance as it is developed.
10d	9/10/2014	4:18pm	Alliance	The final rule includes new conflict-of-interest language related to the Conflict-Free Case Management issue. The transition plan does not address this issue. Alliance wishes to maintain an open dialogue and be a partner to the Department in the interpretation and implementation of this language.	A Conflict-Free Case Management task group is currently developing recommendations which will inform the planning process. The Department is committed to ongoing dialogue around Conflict-Free Case Management. Conversations will continue to be collaborative and include input from stakeholders throughout the transition plan process.
10e	9/10/2014	4:18pm	Alliance	The Colorado Department of Human Services is not listed as a stakeholder; we see the Division for Regional Center Operations as being key to some aspects of the transition plan because it operates group homes that will be subject to the new requirements.	The Department is committed to including all stakeholders. It should be noted that the list was not exhaustive and there are plans to continually update this list as needed. We have included our partners at the Department of Human Services within the Division for Regional Center Operations.

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10f	9/10/2014	4:18pm	Alliance	It appears that the preliminary review of Colorado regulations and supporting documents, as well as a matrix with recommendations, has already been completed. It would be helpful to stakeholders for this information to be made publicly available.	The initial review requires considerably more work to draft recommendations. The Department will share all findings with stakeholders, as information is developed, as well as commit to working with them to ensure proper implementation without undue burden on clients or providers.
10g	9/10/2014	4:18pm	Alliance	Providers are anxious to see the results of the level 1 survey of provider settings. We hope that these results will be made publicly available and that all stakeholders will be informed of how this data will be used. While it is difficult to comment on the level 2 surveys without knowing the results of the level 1 review, it would be helpful for stakeholders to know how sites will be selected for visits, approximately how many will be visited and in what timeframe, what kind of information the state will need from providers and what will be done with the information that is collected from these visits.	The Department is reviewing the data and developing plans for follow-up to the initial survey. The secondary phase of surveying is being developed. Part of this process will be to examine all of the various options to ensure client protection. The Department will share the plans for these processes when they are finalized.
10h	9/10/2014	4:18pm	Alliance	With respect to a survey for individuals and families, CCBs and PASAs should be included as stakeholders if the Department plans to have them assist in distributing the surveys, or if individuals and families may contact them for assistance when completing the survey.	The secondary phase of surveying is being developed. Part of this process will be to examine all of the various options to ensure client protection. The Department will ensure the appropriate parties are involved, including CCB's and provider agencies.
10i	9/10/2014	4:18pm	Alliance	The list of settings that will be developed from the surveys and site visits should be made publicly available, with descriptions of settings that fall into each category (e.g. why a particular setting falls into the "does not meet requirements" category or "heightened scrutiny" category). We strongly urge the department to work closely with providers in gathering information to properly categorize settings.	The Department's implementation of the score card is still in the early phases of development. The Department will provide ample opportunity for involvement from all stakeholders who are interested. This information will be communicated to stakeholders when finalized.
10j	9/10/2014	4:18pm	Alliance	The lease/residency agreement requirements of the final rule present myriad considerations and complications that will require the Department to work closely with providers. Thorough participation from those who directly provide services to individuals with IDD is paramount to developing functional leases/residency agreements that account for these considerations. For example, what types of tenancy rights can be afforded to individuals receiving services in host homes or in the family home (through the Family Caregiver model)? Can/would tenancy rights be afforded to children receiving HCBS? How can the leases accommodate a person who may, at times, be a risk to himself or others? Will a lease agreement interfere with CDPHE licensure when a person needs to be moved from one setting to another due to a personal issue, such as deteriorating health? These are just some of the issues we see arising in this process, and hope to maintain an open dialogue with the Department.	The Department will include stakeholders throughout this process. While many specific details and concerns remain, the Department is committed to maintaining an open dialogue.
10k	9/10/2014	4:18pm	Alliance	More information is needed on what the Department means by "Analyze and include additional requirements to certification standards, processes and frequency of review in order to comply with the new rule."	More information will be made available for stakeholders as it is developed.
10l	9/10/2014	4:18pm	Alliance	More information is needed on what the department means by "strengthen enrollment and re-enrollment procedures to identify settings that may have indicators of non-compliance and require more thorough review." It is unclear who would be responsible for implementing these procedures, and whether there would be additional costs in doing so.	The Department is developing implementation processes and will involve interested stakeholders in developing stronger procedures for enrollment and re-enrollment procedures for providers and clients.
10m	9/10/2014	4:18pm	Alliance	Alliance supports strengthening language to support person-centered principles in waivers and regulations. We also appreciate the recognition by CMS and the Department that reasonable restrictions on rights may be necessary depending on an individual's needs and person-centered plan.	Acknowledged. The Department will continue to work with stakeholders regarding policy for protecting individual rights.

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Community Living Office
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10n	9/10/2014	4:18pm	Alliance	Colorado statute currently articulates rights that must be afforded to people with intellectual and developmental disabilities. Alliance strongly urges the Department to include stakeholder input on participant rights and to carefully consider what rights will be guaranteed to participants, as well as legal implications of those guarantees.	The Department will include stakeholder input as we develop a person-centered planning process that ensures the rights of all clients.
10o	9/10/2014	4:18pm	Alliance	Additional stakeholders should be included when it comes to modifying waivers and regulations to ensure participant choice and strengthening participant protections.	The Department is committed to ensuring person-centered principles in all HCBS waivers and regulations and looks forward to a continued positive working relationship with a broad base of stakeholders.
10p	9/10/2014	4:18pm	Alliance	Clarification is needed for which staff will be required to receive training on PCP philosophy and practice. A number of CCBs and PASAs have already begun receiving and offering trainings in Person-Centered Thinking across the state. PASAs should be included as stakeholders if their staff are to be included. Alliance urges the Department to ensure that PCP trainings are consistent in their messaging and principles statewide, and consistent with training that is already being conducted.	The Department understands the significance of this change for many provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. The Department has supported the training that occurs throughout the state and are members of local leadership groups works with CCB's and providers on PCP principles. All DIDD and LTSS staff receive training in PCP principles and the department has supported Colorado Department of Public Health and Environment staff who survey waiver providers to receive this training. The Department will continue this effort toward a change to person-centered culture with the waiver redesign and implementation. The Department will remain consistent in our effort to provide training and person-centered planning as we transition to the new rule changes.
10q	9/10/2014	4:18pm	Alliance	Clarification is needed to the Department's plan to provide clarity on "home like quality." We are unaware of a standard definition of "home-like quality," and have concerns about adding layers of complexity around settings requirements that are not clearly articulated in the final rule. We urge the Department to engage stakeholders in this process.	The new criteria regarding Home and Community Based Services intends to ensure individuals have full access to the community and a range of living options. The Department will work with all partners during this process to ensure a smooth transition.
10r	9/10/2014	4:18pm	Alliance	Alliance supports expanding the choice of community integration for participants receiving adult Day Habilitation services, but additional resources will be necessary to implement this goal. Additional information is needed on the Department's plans in this area, and we urge the Department to conduct a fiscal analysis to implementing any changes.	The Department's goal is to include stakeholders throughout this process. While many specific details and concerns remain, the Department is committed to maintaining an open dialogue.
10s	9/10/2014	4:18pm	Alliance	With respect to modifying QA documents and deleting references to "non-integrated work services programs provide paid work in sheltered/segregated settings," clarification is needed that this is a technical change to clean up language based on the previous elimination of sheltered work as a Medicaid service, and that this change does not affect payment for pre-vocational services.	Non-integrated work services and pre-vocational services are distinctly different services provided for distinctly different reasons. Non-integrated work services is not reimbursed, while prevocational services are reimbursed.
10t	9/10/2014	4:18pm	Alliance	Clarification is needed regarding Group Residential Services and Supports and modifying policy to make larger facilities more like Individual Residential Services and Supports. It is unclear what policies are implicated in this statement, and what the Department means when it references "larger facilities". If the goal is to reduce the size of group homes, additional funding will be needed to allow providers to meet this goal. The Department should consider modifications to home care licensure rules that increasingly medicalize services for people with IDD and create barriers to individuals directing how they want their services to be provided.	The work to implement the new HCBS Service Setting Rules is just beginning. Work will occur with full stakeholder engagement.

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Community Living Office
Home and Community Based Services (HCBS) Settings Rules

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10u	9/10/2014	4:18pm	Alliance	Again, more information is needed with regard to “outcomes measures on settings”, and we urge the Department to include stakeholders in the development and implementation of these measures.	The Department will include stakeholders throughout this process. While many specific details and concerns remain, the Department is committed to maintaining an open dialogue.
10v	9/10/2014	4:18pm	Alliance	Clarification is needed about the Department’s plans to develop a “provider scorecard”. It is unclear what the purpose for this tool would be and how it will be developed. We support the Department’s plans to include HCBS providers in the development of this tool.	The Department is in the early phases of developing a provider score card. We will provide ample opportunity for involvement from all stakeholders who are interested.
10w	9/10/2014	4:18pm	Alliance	Clarification is needed with respect to monitoring person-centered planning and integrated employment requirements. It is unclear what data is currently available that would be part of a routine review, or what new data will be collected to accomplish this goal.	The department is in the developing, monitoring, and data analytic processes. Stakeholders will be invited to provide feedback as processes are developed.
10x	9/10/2014	4:18pm	Alliance	More information is needed with respect to the Department’s plans to review HCBS provider survey cycles. We urge the Department to engage stakeholders in this review process.	The Department is developing this process and welcomes any contributions from our stakeholders.
10x	9/10/2014	4:18pm	Alliance	More information is needed about the requirement for providers to complete transition plans. The final rule does not appear to require these plans, and adding additional planning and approval processes will likely be cumbersome for community providers. We recognize that complying with the new rule will require the cooperation of providers and the Department, and urge the Department to focus on those settings that are problematic rather than creating blanket planning processes for all providers. We believe it is in the best interests of providers, the State and the people we serve to expedite the transition process without creating unnecessary red tape.	The Department is committed to working with providers, as well as all stakeholders, to ensure that the implementation of the new HCBS rules cause the least amount of disruption to the system as possible. The Department is developing an overall picture of current service settings, enabling us to focus and work with the areas that need more support in the implementation process. The Department is committed to engaging with all providers in implementation of the new HCBS service setting rules to make it the most efficient process possible.
10y	9/10/2014	4:18pm	Alliance	Developing a transition process for individuals to transition to new settings successfully is of paramount importance. We support the Department’s plans to include broad stakeholder input in this process. We believe it is imperative that the State conduct a cost analysis as part of this process. For example, if changes need to be made to a large program like Day Habilitation, we expect that providers will need significant additional resources to transition current participants.	The Department is still seeking clarification at this time and cannot answer the specifics around the question. The Department will use stakeholder engagement to help inform and develop the needed assistance the Department can offer to support providers in the implementation of the new HCBS Service Setting Rules.
11a	9/18/2014	2:45pm	Colorado Gerontological Society	2. The transition plans calls for a site visits and surveys of provider settings to review the infrastructure of existing HCBS residential and non-residential settings. None of the participants in the Stakeholder meeting were contacted by the Department or the Lewin Group for input	The Department is reviewing potential plans for follow-up surveys to gather all relevant data. The secondary phase of surveying is still be developed as well. The Department will include all relevant providers so they can provide input, and the Department will look into these concerns.
11b	9/18/2014	2:45pm	Colorado Gerontological Society	3. Stakeholders would like to provide the following comments for review and consideration to modifications for licensure and certifications: a. Assisted living beds which are currently located on campuses which offer independent retirement living and nursing homes provide the following advantages to residents: i. Older adults does not have to move as their condition changes, but can be served in the same facility and many times in the same room by bringing the services to the resident resulting in preferred care and services. PROBLEM: older adult is forced to move to a new building because their condition changes rather to remain in their own apartment or room.	The Department is still seeking clarification at this time and cannot answer the specifics around the comment/question. The Department is committed to the person-centered approach by ensuring that waiver members have the greatest number of choices as possible. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure that all residential settings and transitions are appropriate for clients.

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Home and Community Based Services (HCBS) Settings Rules

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11c	9/18/2014	2:45pm	Colorado Gerontological Society	ii. Couples who may need different levels of services can live on the same campus and maintain family bonds rather than having one spouse in one location and the other spouse in a different location which results in family disruptions. PROBLEM: couples who may have lived together for 50 years or more are forced to live in separate and different locations because they need different levels of care (i.e. one spouse needs nursing home care and another needs assisted living and they will not be able to be served on the same campus)	The Department is committed to the person-centered approach by ensuring that waiver members have the greatest number of choices as possible. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure that all residential settings and transitions are appropriate for clients.
11d	9/14/2014	2:45pm	Colorado Gerontological Society	iii. Developers and owners, especially in rural areas, have developed assisted living units that are part of the existing hospital or nursing home to reduce construction costs, use central kitchens and maximize operational efficiencies. PROBLEM: The closure of these facilities will result in loss of homes for residents, increased costs for local communities who have to build new facilities to accommodate the needs of the residents (if they have the funding), and loss of jobs for those providing care.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. Additionally there will be ample opportunity to discuss these rule changes in a collaborative environment to ensure all parties are comfortable with the changes.
11e	9/18/2014	2:45pm	Colorado Gerontological Society	b. Leases i. Under landlord-tenant rules, eviction cannot occur unless there is a violation of the terms of the lease. In assisted living residences, residents (tenants) are often discharged because the level of care that is needed changes quickly and dramatically, especially when the individual poses a threat to self or others. PROBLEM: Assisted living staff are not trained to provide acute medical and psychiatric care to residents who need higher levels of care. Community based organizations such as home health care and behavioral health organizations may be supportive, but lack the capacity to provide the 24-hour oversight and supervision that is needed when a person is a danger to self or others in the assisted living. Landlord-tenant rules will need to provide for discharges to appropriate levels of care for at-risk elders to receive the services they need and to protect the life and safety of other residents. For example, a ten-day notice of eviction may put resident at risk as well as risk the safety of other residents.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. Additionally there will be ample opportunity to discuss these rule changes in a collaborative environment to ensure all parties are comfortable with the changes.
11f	9/18/2014	2:45pm	Colorado Gerontological Society	c. Person-centered Care i. Currently care planning focuses on identifying the need of the older adult and developing a plan to provide the care that is needed to meet the needs. PROBLEM: Current assessment tools do not collect data on strengths based care. New tools to collect strengths based data will need to be developed and training will need to be provided to implement these tools. Many individuals have more needs than they do strengths, especially individuals who suffer from dementia. Tools will need to be modified to allow for care that is more needs based rather than strengths based on the safety, health and well-being of the individual.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department is committed to the person-centered approach by ensuring that waiver members have the greatest number of choices possible. The Department also understands that choice in settings and services, as well as need, may be diverse. The Department is committed to engage with stakeholders in this process to ensure all clients have choice appropriate to that individual.
11g	9/14/2014	2:45pm	Colorado Gerontological Society	ii. Data collection to support changes in care planning PROBLEM: Tools will need to be developed that adequately represent the change in condition of the resident as they move from having more strengths to fewer strengths and need more assistance to live in a community-based setting. Standards for the content of the data collection will need to be developed to support changes in care planning to ensure compliance.	The Department is committed to the person-centered approach by ensuring that waiver members have the greatest number of choices possible. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure that all residential settings and transitions are appropriate for clients.

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Community Living Office
Home and Community Based Services (HCBS) Settings Rules

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11h	9/18/2014	2:45pm	Colorado Gerontological Society	iii. Collaborate with other agencies PROBLEM: While other agencies are part of the delivery of services, under current rule, the final delivery of care is the responsibility of the assisted living residence. Implementation will require increased capacity of other agencies to take a more active role in the delivery of care, i.e. behavioral health organizations will need to be on-call and/or deliver actual services in the assisted living on a 24-hour notice and be more able to respond to behavioral emergencies.	The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. The Department agrees there needs to be better coordination between agencies and intends on strengthening those relationships as needed.
11i	9/18/2014	2:45pm	Colorado Gerontological Society	d. Convenience of individual PROBLEM: For older adults, many times families, powers of attorney and/or guardians will be responsible for developing the person-centered plan. These individuals may not have the expertise to develop a plan and it will require the skills of the staff at the assisted living to develop a plan that meets the needs of the resident. While a laudable goal, to deliver person-centered care that is for the convenience of the resident, many of those who will be involved in needing to develop the plan do not have the skills and “hire the assisted living experts” to develop the care plan and provide the care. Rules will need to allow for guided assistance from “assisted living experts” in the development of the care plan.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department is committed to the person-centered approach by ensuring that waiver members have the greatest number of choices possible. The Department also understands that choice in settings and services, as well as need, may be diverse. The Department is committed to engaging with stakeholders in this process to ensure all clients have choice appropriate to that individual.
11j	9/14/2014	2:45pm	Colorado Gerontological Society	PROBLEM: Conducting person-care planning outside of normal business hours also presents a cost to the assisted living residence that will need to be included in any new fee schedules. To remain financially viable, rules will need to provide guidance about the times when care-planning can occur with the opportunity for those requesting assistance being able to apply for waivers to allow flexibility for staff, residents, and families.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. Additionally there will be ample opportunity to discuss these rule changes in a collaborative environment to ensure all parties understand the changes.
11k	9/18/2014	2:45pm	Colorado Gerontological Society	e. 24/7 Food Availability PROBLEM: Facilities do not have kitchens that are open 24/7 to cook full meals on demand. Accommodations need to be made such that cold snacks are available during certain times of the day, i.e. from 7 pm to 7 am. Residents can be allowed access to cereal, fruit, yogurt, and so forth. In large facilities, QMAPs do not have access to the kitchen to prepare food. In small facilities, QMAPs often are the only person on staff and are not able to cook “hamburgers at midnight”. While providing access to a microwave and a stocked refrigerator may work for some residents whose mental cognition is such that they could operate a microwave, other residents in the same facility may not possess the mental condition to safely operate a microwave and thus compromise the safety of the other residents by starting fires, burning food, setting off fire alarms, and disrupting the sleep and quiet enjoyment of other residents. Rules will need to provide for “cold meals” during evening hours to ensure the safety of those residents who may want to cook, but who are not able to safely operate stoves and microwaves, especially if supervision is not readily available in the middle of the night when staffing is reduced to the minimum state requirements	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. Additionally there will be ample opportunity to discuss these rule changes in a collaborative environment to ensure all parties understand the changes.

Department of Health Care Policy and Financing
Community Living Office
Home and Community Based Services (HCBS) Settings Rules

Feedback is received at: HCBS_Rules_Submission@state.co.us

Comment Number	Date Received	Time	Organization Name	Comment Synopsis	Response
11l	9/18/2014	2:45pm	Colorado Gerontological Society	Roommate selection PROBLEM: At this time, the demand for Medicaid beds exceeds the availability in Colorado. Shared rooms for Medicaid residents are the norm, primarily to meet the low reimbursement from the State of Colorado. To meet this requirement, assisted living reimbursement will need to be increased to meet the increased demand for private rooms so that owners will be able to meet the operational costs.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the significance of this change for many of our provider types and intends to have a robust education and training component to meet new rule criteria. As part of this particular plan the Department recognizes the need for clear and routine communication with all providers impacted by the rule change. Additionally there will be ample opportunity to discuss these rule changes in a collaborative environment to ensure all parties understand the changes.
11m	9/18/2014		Colorado Gerontological Society	PROBLEM: If one resident in a room has to approve a new roommate, the availability of Medicaid beds for residents will be decreased, i.e. a resident in a semi-private room could consistently refused to approve a new roommate, thus effectively resulting in a private room. Similarly, a new resident could consistently refuse to agree to a roommate, thus not finding a placement. The outcome of this will result in an increase in nursing home placement as these restrictions are not part of the current nursing home rules and the acuity of the individual's condition deteriorates.	The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the complexity of the new rule and that it creates many questions. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure these questions are answered in a collaborative manner.
11n	9/18/2014		Colorado Gerontological Society	g. Visitors at any time PROBLEM: Consideration needs to be given to how visitors will affect other residents. For example, if a birthday party is going on in the next room at 10:00 pm with drinking, marijuana, and loud noise, how does that affect nearby residents? How does it contribute to agitation to residents who have cognitive disorders? Are their rights compromised? Rules will need to provide for the quiet enjoyment of other residents who may be affected by late-night visitors whose behavior disrupts other vulnerable residents.	The Department is still seeking clarification at this time and cannot answer the specifics around the questions/comment. The Department understands the complexity of the new rule and that it creates many questions. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure these questions are answered in a collaborative manner.
11o	9/18/2014		Colorado Gerontological Society	PROBLEM: What is the definition of a guest? If a family is experiencing homeless and their parent is living in an assisted living residence, can the family "move in", sleep on the floor, use the cooking facilities and other facilities? What is the responsibility of the assisted living residence when a resident provides "housing" for other family members? How long can they stay? Under the landlord-tenant rules, one could limit the number of individuals who are able to reside in an apartment for a certain number of days before they become permanent residents. Rules will need to provide for when a guest becomes a permanent resident using the assisted living rules versus the landlord tenant rules.	The Department is still seeking clarification at this time and cannot answer the specifics around the questions. The Department understands the complexity of the new rule and that it creates many questions. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure these questions are answered in a collaborative manner.
11p	9/18/2014	2:45pm	Colorado Gerontological Society	PROBLEM: If guests are allowed to visit without oversight by the management, what is the responsibility for fire and safety? How will management know who is in the building and who needs to be evacuated if they do not have control over the guests in the building? Rules will need to allow for some type of interventions with guests to assure the health and safety of residents, as well as guests.	The Department is still seeking clarification at this time and cannot answer the specifics around the question. The Department understands the complexity of the new rule and that it creates many questions. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure these questions are answered in a collaborative manner.

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Comment Number	Date Received	Time	Organization Name	Comment Synopsis	Response
11q	9/18/2014	2:45pm	Colorado Gerontological Society	<p>h. Freedom to decorate PROBLEM: While assisted living owners respect the right of residents to decorate their own apartments to their liking, the health and safety of other residents is sometimes compromised with such things as bed bugs in furniture and clothing. How does management ensure that other residents in the building have a safe and clean environment? Who bears the expense of “new paint” if the resident wants to change the color of the walls? Will landlords be allowed to charge “deposits” to offset the costs of paint, change in carpets, and so forth? Rules will need to make accommodations for some oversight of management to ensure that residents are not exposed to health risks such as bed bugs.</p>	<p>The Department is still seeking clarification at this time and cannot answer the specifics around the question/comment. The Department understands the complexity of the new rule and that it creates many questions. The Department is in the planning and development stages of how the various residential settings must respond to changes in the Federal rule. Furthermore, the Department is committed to engaging with stakeholders in this process to ensure these questions are answered in a collaborative manner.</p>
11r	9/18/2014	2:45pm	Colorado Gerontological Society	<p>i. Timeline from the state PROBLEM: What is the timeline for compliance that the state will provide as current and new owners will have to make changes to their business model to meet the proposed changes that has more specificity than is currently in the proposed transition plan? Assisted living owners need time to plan, raise capital, and determine if they can continue to offer services to Medicaid residents. Thus, the need to develop a specific timeline is requested as soon as possible to meet the anticipated changes in the business model that is being required under the federal rules.</p>	<p>The final rule was effective March 17th, 2014 with a mandate from the Centers for Medicare and Medicaid Services to have a transition plan submitted by March 17th, 2015. All states must be in compliance with the entire rule within five years. The Department is still finalizing details regarding the exact timeline for meeting the final rule criteria and will make those dates public when they are known.</p>