

## **Department of Disabilities, Aging and Independent Living (DAIL) Developmental Disabilities Services Division HCBS Work Plan**

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With the new Home and Community Based Services rules CMS is moving away from defining home and community-based settings by “what they are not,” and toward defining them by the nature and quality of individuals’ experiences. The home and community-based setting provisions in this final rule establish a more outcome-oriented definition of home and community-based settings, rather than one based solely on a setting’s location, geography, or physical characteristics.” (January 10, 2014 Fact Sheet: Summary of Key Provisions of the Home and Community-Based Services (HCBS) Settings Final Rule). With this intent in mind, the Vermont Developmental Disabilities Services Division will initiate a series of collaborative projects with the provider community, disability advocates, community members and, most importantly, the people who receive support and assistance through the various community-based services. The initiatives will focus on how people experience their support services and whether or not those they reflect and support the expression of full human rights as citizens in their communities. Where those support services fall short the division will collaborate in providing guidance, technical assistance, methods from tracking positive change in personal outcomes, partnerships for improvement and opportunities for empowerment and advocacy by those who are most directly impacted by the service system.

This work plan contains proposed improvement or action steps recommended by the State that will strengthen Vermont’s home and community-based services system under the purview of the Developmental Disabilities Services Division.

The primary lead for the Developmental Disabilities Services Division proposed improvements/actions steps rests with the Department of Disabilities, Aging and Independent Living (DAIL). All proposed improvements/actions steps are managed in collaboration with program stakeholders, the Vermont Agency of Human Services (AHS) and the Department of VT Health Access (DVHA). The work plan will commence in January 2017 and is anticipated to be complete by December 2017.

<b>Regulation: Settings Requirements</b>	<b>Findings</b>	<b>Proposed Improvements/Action Steps</b>
Commensurate with a persons individualized plan, needs and abilities the setting –	For Group Community Supports (Provider controlled settings) there	1. OUTCOME - The (SOCP Attachment A: Developmental Disabilities Services Codes and definitions B01 Community Supports) will be

<p>(1)The setting is integrated in and supports full access to community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving HCBS.</p> <p>(4.) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>are no service specific definitions or guidelines.</p>	<p>revised to include the requirement that people being served in group community supports in provider controlled settings are given choice in daily activities, physical environment options and with whom they interact and that this and other opportunities to exercise initiative, autonomy and independence are documented. <u>Estimated time of completion – August 2016</u></p> <ol style="list-style-type: none"> <li>2. DAIL to solicit stakeholder feedback on updated documents.</li> <li>3. DAIL to incorporate feedback into documents.</li> <li>4. DAIL to publish revised documents and distribute to stakeholders</li> <li>5. DAIL to submit rules updates to AHS legal services for processing</li> </ol>
<p>5. Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>For Group Community Supports that are provided in provider controlled settings there are no service specific guidelines on this topic.</p>	<ol style="list-style-type: none"> <li>1. OUTCOME - The (SOCP Attachment A: Developmental Disabilities Services Codes and definitions - B01 Community Supports will be revised to include the requirement that in each service type when supports are provided to someone where multiple people are served in the same setting there must be clearly delineated and documented opportunities presented for the person to choose what is provided and by whom. <u>Estimated time of completion – August 2016</u></li> </ol>

		<ol style="list-style-type: none"> <li>2. DAIL to solicit stakeholder feedback on updated documents.</li> <li>3. DAIL to incorporate feedback into documents.</li> <li>4. DAIL to publish revised documents and distribute to stakeholders.</li> <li>5. DAIL to submit rules updates to AHS legal services for processing</li> </ol>
<p>(6a) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity.</p>	<p>Policies for Shared Living (1 – 2 persons) and Staffed Living (1 – 2 persons) do not address this requirement.</p>	<ol style="list-style-type: none"> <li>1. OUTCOME - The (regulation/SOCP/Medicaid Manual/DDSD policy) will include a requirement that when a person is provided with services in a unit or dwelling that is owned by someone else that they are provided with the opportunity to enter into a legally enforceable agreement that offers the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state of Vermont and the local city or town. <u>Estimated time of completion – August 2016</u></li> <li>2. DAIL to solicit stakeholder feedback on updated documents.</li> <li>3. DAIL to incorporate feedback into documents.</li> <li>4. DAIL to publish revised documents and distribute to stakeholders.</li> </ol>

		<p>5. DAIL to submit rules updates to AHS legal services for processing</p>
<p>8. Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors</p> <p>10. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement</p>	<p>None of the regulations for residential settings stipulate or otherwise provide guidance on who has keys to various settings.</p>	<p>1. OUTCOME - The (SOCP &amp; Medicaid Manual in terms of definitions &amp; service codes/also DD Act &amp; Guidelines for Quality Services Review Process in terms of Respect, Privacy, Meaningful Choice) will include a requirement that people who receive residential services will have lockable doors to their rooms with only appropriate staff having keys to the doors and will be able to furnish and decorate their sleeping and living areas. <u>Estimated time of completion – August 2016</u></p> <p>2. DAIL to solicit stakeholder feedback on updated documents.</p> <p>3. DAIL to incorporate feedback into documents.</p> <p>4. DAIL to publish revised documents and distribute to stakeholders.</p> <p>5. DAIL to submit rules updates to AHS legal services for processing</p>
<p>11. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time</p>	<p>For community supports in provider controlled settings</p>	<p>1. OUTCOME - The (SOCP Attachment A: Developmental Disabilities Services Codes and definitions B01 Community Supports will include a requirement that people who receive</p>

	<p>there are no service specific guidelines</p>	<p>community supports in provider controlled settings will be actively encouraged to design their schedules, have choices in activities and have access to food at any time.</p> <ol style="list-style-type: none"> <li>2. DAIL to solicit stakeholder feedback on updated documents. <u>Estimated time of completion – August 2016</u></li> <li>3. DAIL to incorporate feedback into documents.</li> <li>4. DAIL to publish revised documents and distribute to stakeholders.</li> <li>5. DAIL to submit rules updates to AHS legal services for processing</li> </ol>
<p>Behavioral intervention programs “(c) Document less intrusive methods of meeting the need that have been tried but did not work”</p>	<p>Documentation standards in the DD Act for all service types could be stronger on this point.</p>	<ol style="list-style-type: none"> <li>1. OUTCOME - The (Behavior Support Guidelines, page 18, Functional Assessment &amp; Attachment E page 31 <a href="http://ddas.vt.gov/ddas-policies/policies-dds/policies-dds-documents/behavior-support-guidelines">http://ddas.vt.gov/ddas-policies/policies-dds/policies-dds-documents/behavior-support-guidelines</a>) will include a requirement that people who receive any type of service where a behavioral intervention program is in effect that less intrusive methods of meeting their needs have been tried but did not work and that this is documented. <u>Estimated time of completion – August 2016</u></li> <li>2. DAIL to solicit stakeholder feedback on updated documents.</li> </ol>

		<ol style="list-style-type: none"> <li>3. DAIL to incorporate feedback into documents.</li> <li>4. DAIL to publish revised documents and distribute to stakeholders.</li> <li>5. DAIL to submit rules updates to AHS legal services for processing</li> </ol>
<b>Regulation: Person-Centered Planning</b>	<b>Findings</b>	<b>Proposed Improvements/Action Steps</b>
<p>The plan:</p> <p>5. Includes strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning participants.</p> <p>6. Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan, except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area also provides HCBS. In these cases, the State must devise conflict of interest protections including separation of entity and provider functions within provider entities, which must be approved by CMS. Individuals must be provided with a clear</p>	<p>Conflict of interest guidelines are not explicit</p> <p>Guidelines regarding separation of functions within entities are not explicit</p>	<ol style="list-style-type: none"> <li>1. DAIL to update the (Regulations Implementing the Developmental Disabilities Act of 1996, section 4.8 Provider Choice <a href="http://dail.vt.gov/dail-statutes/statutes-ddas-dds-documents/dd-regs-3-11">http://dail.vt.gov/dail-statutes/statutes-ddas-dds-documents/dd-regs-3-11</a>) to specify a requirement that protocols to reduce conflict are in operation at Designated Agencies and that informed choice and conflict free case management is maximized for any person who is the central participants in the person centered planning process and plan.</li> <li>2. DAIL to engage Green Mountain Self-Advocates and the Vermont Care Partners in developing protocols to reduce conflict of interest when the provider of case management is the same employer as those who provide HCBS services to include: <ol style="list-style-type: none"> <li>a. Appropriate division of supervision and direct reports with the design of the</li> </ol> </li> </ol>

<p>and accessible alternative dispute resolution process</p>		<p>organization to reduce conflict of interest</p> <ul style="list-style-type: none"><li>b. Clear provisions for the person who receives case management to choose alternatives among available and willing alternatives within the geographic area.</li><li>c. Documentation that a variety of supported decision making tools and strategies were used in assisting the person in making the choice of providers of case management and home and community based services.</li><li>d. Clear and accessible alternative dispute resolution process</li></ul> <ol style="list-style-type: none"><li>3. DAIL to solicit stakeholder feedback on updated documents.</li><li>4. DAIL to incorporate feedback into documents.</li><li>5. DAIL to publish revised documents and distribute to stakeholders.</li><li>6. DAIL to provide training and technical assistance to providers and stakeholders as needed including assistance in conducting a self-assessment using the Personal Outcomes Measures (POM).</li><li>7. DAIL to evaluate results of the provider self-assessment tools.</li></ol>
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<p>7. Offers informed choices to the individual regarding the services and supports they receive and from whom</p> <p>8. Records the alternative home- and community-based settings that were considered by the individual</p>	<p>Guidelines do not address this element.</p> <p>Guidelines do not address this element.</p>	<ol style="list-style-type: none"> <li>1. DAIL to update the (Regulations Implementing the Developmental Disabilities Act of 1996, section 4.8 Provider Choice <a href="http://dail.vt.gov/dail-statutes/statutes-ddas-dds-documents/dd-regs-3-11">http://dail.vt.gov/dail-statutes/statutes-ddas-dds-documents/dd-regs-3-11</a>) to specify a requirement that person-centered plans confirm and document that informed choices regarding services and supports that they receive were offered as well as informed choices regarding alternative home and community-based settings.</li> <li>2. DAIL to solicit stakeholder feedback on updated documents.</li> <li>3. DAIL to incorporate feedback into documents.</li> <li>4. DAIL to publish revised documents and distribute to stakeholders.</li> <li>5. DAIL to submit rules updates to AHS legal services for processing</li> </ol>
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