HCBS STATEWIDE TRANSITION PLAN
PUBLIC COMMENTS AND RESPONSES SUMMARY

University of Arkansas Partners for Inclusive Communities – organization, oral comment at public hearing and written comment

Comment – What standards will DHS use to determine whether a setting is compliant? DHS needs to be able to “score” the characteristics of settings.

Response – DDS and DAAS will evaluate the characteristics of settings based on the Final Rule, through the use of on-site observation, interviews with persons served, and a review of provider policies. DDS will issue a letter of approval to those sites and providers that are in compliance.

Comment – DHS needs a process for grievances.

Response – DHS will handle grievances and complaints as it does now. DDS uses DDS Policy 1010, Investigations and DDS Policy 1076, Appeals. DAAS will also handle grievances as it does now using current processes and policies.

Comment – DHS needs better outreach to and more input from people with disabilities and advocates.

Response – DHS outreach planning and implementation is ongoing. DDS staff has conducted or have scheduled presentations with members of the DD Network, which includes advocates and people with disabilities. DAAS is meeting with stakeholders.

Comment – DHS needs more detail about the process to relocate people if a setting is found to be out of compliance.

Response – DDS will offer choice of a new provider to persons impacted by a determination of their current provider’s noncompliance as it does now when a provider can no longer provide HCBS services. DDS will provide technical assistance to people needing relocation and their new provider as needed.

Comment – DHS needs better training for persons impacted by the Final Rule.

Response - DDS staff has conducted or have scheduled presentations regarding the Final Rule, including both Settings and Person Centered Service Plan, with members of the DD Network and other organizations that include people with disabilities. A model for training people with disabilities is being discussed.
Comment – DHS needs to address housing shortage.

Response - Lack of housing is outside the scope of the Plan.

Comment – DHS needs to involve other agencies, such as ARS and DBHS.

Response - The Plan includes those agencies and DHS divisions that provide HCBS services, which are DDS and DAAS.

Comment – DAAS should consider adjusting its timeline . . . unexpected problems arise that may delay plans . . . By planning to complete the transition so close to the deadline . . . they are inviting problems in successfully completing..

Response – DAAS plans to complete tasks ahead of schedule. The dates are pushed out on the plan to allow for unexpected problems.

Disability Rights Arkansas - organization, oral comment at public hearing and written comment

Comment – DHS planning is not adequate and should be more cohesive and transparent.

Response - Planning is ongoing. DDS has presented or will present to members of the DD Network and provider and advocacy groups.

Comment – DHS needs better transparency and outreach. Reports should be posted.

Response - Outreach is ongoing to enhance transparency. Comment about posting reports is noted.

Comment - DHS needs an objective means of assessing the characteristics of settings.

Response – DDS will evaluate the characteristics of settings based on the Final Rule, through the use of on-site observation, interviews with persons served, and a review of provider policies.

Comment – DHS needs a grievance system.

Response – DDS will handle grievances as it does now, through Policy 1010, Investigations and DDS Policy 1076, Appeals. DAAS will also handle grievances as it does now using current processes and policies.

Comment – DHS needs due process.
Response – DDS will handle due process as it does now, through Policy 1076, Appeals. DAAS will continue to handle due process through the current DHS appeals process.

Comment – DHS could accomplish tasks on the timeline in less time.

Response – DHS has considered all of the tasks to be accomplished and has selected timelines that are realistic. DHS may be able to complete tasks ahead of schedule.

Comment – DHS needs a more unified plan. The current plan looks like two plans, one for DDS and one for DAAS.

Response – The Plan takes into account the differences in DDS and DAAS waivers and populations and the divisions’ processes and resources.

Comment – DHS needs better training for persons served.

Response - Training for persons served is still to be developed.

Comment – DHS needs more detail about relocation.

Response - Details for relocation are still to be developed for people in those settings that are out of compliance after the Plan completion date.

Comment – DHS needs to address housing shortage.

Response - Lack of housing is outside the scope of the Plan.

Comment – DHS needs to address transportation shortage.

Response - Lack of transportation is outside the scope of the Plan.

Comment – DAAS has not completed assessments and, based on a response to a recent FOIA request, has yet to develop a list of providers to which the rules will apply.

Response – DAAS developed a list of providers to which the rules will apply in June 2014, and sent a survey to those providers in July 2014.

Comment – Concerned two separate definitions of community will be applied to programs based on which division is responsible.

Response – All divisions will use the same definitions as provided in the federal regulations.

Comment – Concerning beneficiary input: DAAS has stated an intention to rely strictly on provider self-assessments and telephone calls as a follow-up step.
Response – DAAS does intend to do onsite visits to facilities to gather information on the consumer's experience. The Plan document has been adjusted to better reflect that intention.

**DDPA – organization, written comment**

*Comment – DHS needs to define “Other Living Arrangements”.*

Response - “Other living arrangement” will be defined in the Plan as an apartment or other housing that is provider-owned, operated or controlled, including staff homes.

*Comment – DHS needs to identify locations requiring heightened scrutiny.*

Response - Locations requiring heightened scrutiny will be identified.

*Comment – DHS should extend timeframes for some tasks in the Plan.*

Response – DHS has considered all of the tasks to be accomplished and has selected timelines that are realistic. DHS may be able to complete some tasks ahead of schedule but may extend the timeframes for other tasks as implementation continues.

*Comment – DDS needs to review its Waiver, determine an effective date, and develop a model for HCBS day services.*

Response - Alternative Community Service Waiver renewal application review with stakeholders is ongoing. Proposed effective date for Waiver and other rules related to HCBS to be determined. HCBS day settings model to be developed.

**Melrose Community Outreach - organization, oral comment at public hearing**

*Comment – DHS needs to assure that people have a choice of provider.*

Response – The process for free choice of provider is covered in existing Waivers. The Final Rule does not change those requirements.

*Comment – DHS needs to offer training to people with disabilities so they can become productive citizens.*

Response – Training for persons served on issues related to the Final Rule is still to be developed.
DDPA – organization, written comment

Comment – The Final Rule requires heightened scrutiny for settings that are on the grounds of a public institution. HDCs are public institutions and they must comply with rigorous requirements which may exceed requirements for providers of HCBS services. The Final Rule must be reviewed thoroughly. The Final Rule is an overreach by the federal government.

Response – DHS has performed a thorough review of the Final Rule over the past year, including all guidance received from CMS. DHS will comply with all federal requirements regarding heightened scrutiny, which includes those settings that are physically located on the grounds of a public institution.

Member of the public, email written comment

Comment - Providers need a wage increase and quicker enrollment for the self-directed caregiver.

Response - DAAS is currently working on making several improvements to the waiver for individuals with physical disabilities, two of which address concerns of wage increase and quicker enrollment for the self-directed caregiver.

Member of the public, email written comment

Comments – People should have the right to decide even if they do not communicate using words. DHS needs better oversight of Waiver services. The close relationship between DHS and providers and the person served is an outsider.

Response – The Final Rule would include the choice of a person with differing communication skills. Comments regarding oversight of Waiver services and the provider and DHS relationship address serious issues but are outside the scope of the Final Rule.

Member of the public, email written comment

Comments – Lease is a duplication of the Assisted Living Occupancy Agreement. AL uses lockable doors, but staff has keys to facilitate safety and resident needs. Alzheimer’s/Dementia Units, special care must be outlined in your draft plan so that
these groups are not excluded and the plan recognizes the necessity of safety from elopement.

Response - DAAS has the same concerns regarding leases, lockable doors and Alzheimer's/dementia units. DAAS hopes that we can resolve these issues with CMS.

Comment – Site visits should be by appointment so that the most knowledgeable persons are available for the site visit.

Response - DAAS plans to schedule times with appropriate ALF personnel when arranging site visits.

AALA - organization, written comment

Comment – We request the opportunity to participate in the site visits or at least the initial discussion about the criteria of the site visits.

Response – DAAS welcomes AALA's participation at all stages of executing the transition plan.

Comment – Secured Units – We request the opportunity for our providers to be at the table for discussions as the state works to clearly define the elements of the definition in regards to secured units.

Response – DAAS welcomes AALA's provider's input in this important area.

Themes and responses

Theme: Multiple commenters mentioned the need for more transparency, outreach and training by the State and more input from the public.

State response: In addition to the public hearing held on April 6, 2015, the State conducted a public meeting with four remote video locations on August 17, 2015. The State will conduct additional public meetings. The State is also developing a small stakeholder group to review the CMS response to the Statewide Transition Plan (STP) and develop the components of the STP that need more details. The State will conduct training for the public, providers, and people served as noted in the timeline.

Theme: Multiple commenters mentioned the need for a grievance system and due process.
**State response:** The State has policies and processes in place to address grievances by people and providers and provide due process.

**Theme:** Multiple commenters mentioned the need for more details about the relocation of people who reside in a noncompliant setting.

**State response:** The State is developing plans to relocate people who live in settings that are out of compliance after the Plan completion date.

**Theme:** Multiple commenters mentioned the need for more housing.

**State response:** The STP does not address this issue.