Seal of the Commonwealth

Commonwealth of Virginia

*Virginia Board for People with Disabilities*

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March 25, 2019

TO: Teri Morgan, DD Waiver Program Manager

[HCBSComments@dmas.virginia.gov](mailto:HCBSComments@dmas.virginia.gov)

FROM: Heidi L. Lawyer Signature

RE: Comment on the Commonwealth of Virginia REVISED Statewide Transition Plan for Compliance with the Home and Community Based Services (HCBS) Final Regulation’s Settings Requirements.

Dear Ms. Morgan:

I am writing to provide comments on behalf of the Virginia Board for People with Disabilities (the Board) regarding Virginia’sREVISED Statewide Transition Plan (STP) for four 1915(c) home- and community-based waivers: Community Living Waiver; Family and Individuals Supports Waiver; Building Independence Waiver; and, Commonwealth Coordinated Care Plus Waiver. The Board appreciates the opportunity to provide additional input on the plan. Our last comment was in April 2016. The final Home- and Community-Based Services (HCBS) settings requirements emphasize choice, independence, self-determination, and community integration and these are values that have long guided the work of the Board and other advocates in Virginia and nationwide. The Board appreciates the extensive work undertaken by DMAS and DBHDS in providing guidance to providers in carrying out their self-assessments and to the Commonwealth’s commitment to ensuring that the law and spirit of the HCBS rule are met.

The Board made a number of comments in 2016 seeking clarification on, or recommending improvements to, the manner in which provider self-assessment data was collected, analyzed, and presented. The processes implemented through RedCap, combined with the training and technical assistance to providers who were conducting the self-assessment, represented a significant improvement. Effective implementation of the HCBS rule requires a culture shift and paradigm shift for many providers. This requires a commitment from the highest levels of leadership in an organization. As such, the **Board appreciates the Commonwealth’s determination that a provider must be compliant at the organizational level in order to be assessed as compliant at a settings level.** The technical assistance and guidance provided, along with the HCBS toolkit that was developed, are critically important to helping all providers come into and remain in compliance.

We respectfully submit the following comments on the February 2019 Statewide Transition Plan Addendum. Our comments are listed by the specific components on which CMS requested additional information and/or review:

1. ***General Comment***

The Board is appreciative of all of the information provided in the STP Addendum. This information, however, is primarily focused on residential settings and the HCBS rules apply to all settings. Virginia has been cited by the U.S. Department of Justice (DOJ) for its overreliance on sheltered workshops and inadequate progress in meeting the competitive, integrated employment targets of its DOJ Settlement Agreement. The STP does little to address this, and as an Employment First State, Virginia must do better. Providers should be held to a standard that ensures individuals with DD have access to employment in integrated settings and are not automatically referred to day programs or sheltered work.

1. **The Board recommends that detail be added to the STP that addresses provider compliance in such areas as the individuals’ rights to seek integrated, competitive employment, discussion of employment options (including non-disability specific employment and day settings), and control over personal resources.**

1. ***Comprehensive site-specific assessments of all home and community-based settings, implementation of necessary strategies for validating the assessment results, and include the outcomes of these activities within the STP.***

Assessing Adult Day Health Center Compliance with HCBS rule

In 2016, the Board recommended that DMAS reevaluate the Commonwealth’s conclusions about the compliance status of Adult Day Health Centers (ADHCs) and ensure that these settings are included in the Commonwealth’s ongoing monitoring activities. The Board appreciates the additional work that took place to determine ADHC compliance with HCBS, finding that 53 of 54 were non-compliant based on self-assessment, and providing technical assistance to achieve remediation. According to the revised STP, all 54 are now in compliance.

While commendable, it does seem somewhat unlikely that all 54 meet both the spirit and letter of the rule when not in compliance so recently. It is unclear whether a random sampling of ADHCs, and how many ADHCs, were visited to determine compliance. The STP simply states that “site visits and technical assistance with providers needing targeted remediation” were conducted.

The STP indicates that conducting ongoing monitoring of ADHCs is the responsibility of the health plans, and that the health plans can determine which methods to use. The STP notes that the health plans were provided with training on the HCBS settings rule, expectations for compliance, self-assessment process of current providers, tools used, evidence and service practices that demonstrate compliance, red flags to be aware of, and ongoing monitoring responsibilities. Health plan contracts include requirements for ADHC settings compliance, compliance monitoring, and remediation that are further described in the revised STP. The STP does not include any discussion of DMAS’ responsibility to oversee the health plans’ monitoring, nor the methods DMAS will use for such oversight.

The Board is concerned that the health plans do not have the adequate knowledge, background, culture, or incentives to be effective stewards of the HCBS integrated settings rule. Health plans are administered via a medical, rather than social/holistic, model. CCC Plus, including the CCC Plus Waiver, has experienced significant growing pains, and individuals and families have experienced, and continue to experience, difficulties in obtaining needed services or adequate levels of service, e.g., nursing hours/personal care hours. Health plans also lack incentives for enforcing the HCBS settings rule, absent related performance measures that are tied to their rates. The Department's performance measures for the 2019 and 2020 Performance Withhold Program, as well as other data collected by the Department via the CCC Plus Technical Manual, appear to be focused primarily on medical health utilization and expenditures, not HCBS compliance or the quality of a member’s long-term services and supports.

The Board is also concerned that delegating the task of compliance oversight solely to MCOs may result in unnecessary duplication across the MCOs and potentially differing conclusions across the health plans due to incomplete information. Each health plan will be conducting its own assessment of a given provider, so one provider may be subject to multiple assessments. Each health plan will only have information regarding members in their own health plan who receive services from a given provider, rather than all CCC Plus members who receive services from the provider. This incomplete information could lead some health plans to decide that a provider complies with the HCBS rules, while other health plans may decide the provider does not comply. If just one health plan has sufficient evidence to indicate that a provider is out of compliance, then that information should be available to the other health plans and the Department of Medical Assistance.

**The Board recommends that:**

1. **DMAS should conduct site visits to a sampling of ADHCs to verify compliance with the HCBS rule**
2. **The Commonwealth should continue to closely examine the actual practices of ADHCs as part of its ongoing assessment and monitoring activities to ensure that their interpretation and application of policies, practices, and regulations are truly consistent with HCBS settings regulations. While these settings are designed primarily to serve elderly populations, many young adults with disabilities are served in these settings as well. It is imperative that these individuals have meaningful opportunities for full community engagement.**
3. **DMAS should closely monitor health plan oversight of HCBS compliance. The STP should include a discussion of this responsibility and how the Department will carry it out. As part of this monitoring, the Department should (i) provide education and training as needed to ensure that the health plans are able to carry out this critical responsibility and that they have access to all the information they need regarding HCBS compliance to make informed decisions about provider credentialing; (ii) better specify health plans’ responsibilities with respect to HCBS rule monitoring in the CCC Plus Contract, including reporting and remediation actions that health plans are required to take if an ADHC is found non-compliant; (iii) require in the CCC Plus Contract that health plans submit their policies and procedures for monitoring HCBS compliance to the Department for approval at implementation, upon revision, and upon request; and (iv) require in the CCC Plus Contract and/or CCC Plus Technical Manual that the health plans provide findings from their HCBS compliance activities, including findings from their individual experience surveys, to the Department in a standard format for review.**
4. **The Department of Medical Assistance Services should include performance metrics related to HCBS compliance, and the quality of long-term services and supports more generally, in its Performance Withhold Program, Data Quality Scorecard, Compliance Monitoring Process, and/or other mechanisms the Department is using or will use to hold managed care organizations financially accountable for their performance.**

Individual Experience Survey

The Board is concerned that the individual experience survey, which will be administered by care coordinators, may not accurately capture member experiences. Members could be reluctant to provide negative comments or experiences to the care coordinator for fear of retaliation by the health plan, because the care coordinator is employed by the health plan. This is true whenever the service provider administers a survey designed to assess satisfaction with services that are delivered, administered or overseen by that same entity. Even though the care coordinator is directed not to influence the member’s response, there appears to be no oversight to ensure no undue influence. Care coordinators are also unlikely to have the requisite expertise in the HCBS rule or in conducting exploratory interviews. The model survey included in Appendix A7 of the STP provides very little guidance on how to conduct the survey. It states only that the interview should be “conversational,” and that “the questions…can be expanded upon as part of the method of discovery,” and “…the surveyor should use their best judgment with the phrasing.” Individuals without prior knowledge and experience in the HCBS rule or exploratory interviewing may not know how to effectively carry out this guidance.

The Board is also very concerned about the subjective nature of the survey. Three aspects of the survey, in particular, spark concerns:

* As previously mentioned, the model survey provides very little guidance on how to conduct it, saying it should be “conversational,” “the questions…can be expanded upon as part of the method of discovery,” and “…the surveyor should use their best judgment with the phrasing;”
* Furthermore, the survey provides very minimal guidance on how care coordinators should conduct their observations, e.g., how long the observation period should be, when the observation period should occur, what areas of the setting should be observed, what activities in the setting should be observed; and,
* Perhaps most importantly, the survey provides no guidance on how to use the information gathered to determine compliance with each element and overall compliance, e.g., what the appropriate indicators of compliance or noncompliance are, whether all sub-elements must be in compliance for the element to be in compliance, and whether all elements must be in compliance for the setting to be in overall compliance.

This subjectivity greatly increases the risk of obtaining unreliable and inaccurate results. Two care coordinators might elicit very different information from the same member, depending on what questions they choose to ask, what follow-up questions they choose to ask, and how they phrase their questions. Two care coordinators might also arrive at different conclusions, even if they are given the same information, since there is no guidance on how to use the information gathered to determine overall compliance. These risks are exacerbated by the care coordinators’ lack of knowledge and experience in conducting exploratory interviewing for this purpose.

The subjectivity also limits the health plans’ and Department’s ability to readily monitor the administration of, and assess results from, the hundreds of surveys that will be conducted annually. How can the health plans and the Department readily determine which specific aspects of the settings led to noncompliance if there are no required questions and no standard way of using the information gathered to determine compliance with each element and overall compliance? How can the health plans and the Department readily “analyze data from the Individual Experience Survey,” as required by the CCC Plus contract, if there is no standard data collected beyond findings of compliance or noncompliance? While the Board understands that there is benefit to administering surveys through exploratory methods, including building more rapport with the member and obtaining more qualitative information, that benefit does not negate the need or ability to standardize key aspects of the survey.

**The Board recommends that:**

1. **DMAS should consider requiring independent administration of the individual experience assessment to better ensure accurate representation of member experiences.**
2. **If DMAS continues to have health plans administer the individual experience assessment, DMAS should provide specific training to relevant health plan staff, including care coordinators, on the member survey. The training should address topics such as (i) an overview of the HCBS rule and how the individual experience survey relates, (ii) how to encourage members to respond honestly, (iii) how to conduct exploratory interviewing, (iv) key information the care coordinator needs to get from the member, at a minimum, and (v) how the care coordinator should decide overall compliance based on the information gathered.**
3. **DMAS should standardize key elements of the proposed individual experience survey in Appendix A7 of the STP to better ensure that the findings are reliable and accurate, and to better enable the health plans and the Department to monitor the administration of, and assess results from, the survey. Standardization should include (i) requiring key questions to be asked at some point during each survey; (ii) providing more guidance on what the observation component should entail, e.g., timing, length, specific areas of settings and activities to observe; and (iii) requiring care coordinators to assign a compliance level for each of the four elements, each of the sub-elements (i.e. each required question), and the four elements as a whole. Guidance should be provided on what each compliance level represents, and compliance findings should entail more than a simple yes or no conclusion, because in many circumstances some elements will be met while others are not.**
4. **DMAS should put processes in place to monitor the administration of the member survey to ensure that (i) members feel free to respond truthfully, understand what they are being asked, and that any individual issues are promptly addressed, and (ii) surveys are being administered as required**
5. **The Department should add the following sentence to the model Individual Experience Survey in Appendix A7, at the end of the fourth item in the bulleted list on the first page: “You will still be able to receive services, even if you say ‘no.’”**

Assessing compliance of private homes with HCBS rule

CMS allows states to presume that services provided in an individual’s own home or apartment are compliant with HCBS regulations, which Virginia has done in its STP. The Board acknowledges that monitoring family homes would be overly intrusive and extremely challenging and as overall policy, this presumption makes sense. However, it remains critical to ensure that individuals who live with family are in environments that support individual choice, autonomy, independence, privacy, dignity, and full access to the greater community. There will be some circumstances in which this is not the case and the individual is subject to an environment that does not respect him and/or is abusive or exploitative.

The revised STP includes a brief section on Private Homes in which it states that the support coordinator is responsible for determining the individual’s satisfaction related to services and supports. Individuals living in private homes are also included as part of the NCI survey sample. However, only aggregate data will be utilized to identify systemic needs.

1. **The Board recommends that the Commonwealth include in its compliance monitoring system, at some level, a way to ensure that services and supports that individuals receive in their own or family home meet the tenets of the HCBS rule. This could be incorporated into support coordinator responsibilities for determining quality and adequacy of services and addressing concerns about integration through ISP changes or other available mechanisms.**

Assessing compliance of ICF/IID LOC Settings under the DD Waivers

The Board is also unclear from the STP as to how the sample of 400 on-site reviews to verify initial compliance will be identified, and whether any site visits conducted through ongoing monitoring would allow for a comprehensive look at a site’s overall compliance. Will the sample of 400, for instance, consist of an equal share of large and small settings, will larger residential settings, day centers, or workshops be the primary targets, or will settings be identified in a random manner? The Board is concerned that a random or stratified sampling, rather than on-site reviews of the entire population of settings, will not be adequate to identify problem providers. The state could generalize the findings from the sample to the entire population of settings, assuming a random or stratified sample is conducted. However, that generalization only allows the state to estimate how many of the unvisited sites are noncompliant, but not which specific sites are noncompliant.

If a site isn’t chosen for the initial on-site reviews, the extent to which it will be subject to on-site reviews in the future is not clear in the STP’s description of ongoing monitoring activities. Some activities are noted as being conducted via site visits, but no methods are provided for other activities and it is unclear whether the compliance criteria will be addressed in a comprehensive manner via site visits.

1. **The Board recommends that more detail be provided in the STP about the 400 onsite reviews to observe settings, review records, and interview staff and individuals, including details about why the number 400 was chosen and how the specific settings will be selected. The Board recommends that the Commonwealth prioritize larger settings in its selection process and/or develop other triggers for on-site reviews (size could be one of the factors; other factors could be providers that have had problems in the past, such as human rights violations, safety issues, etc.).**
2. **The Board recommends that more detail be provided in the STP about the extent to which sites will be subject to on-site reviews as part of ongoing monitoring, including which compliance criteria will be reviewed on site.**
3. **The Board recommends that the plan be strengthened by detailing the type and amount of initial and ongoing training that will be provided to individuals with responsibility to conduct assessment and validation activities.**
4. ***Remediation strategies and a corresponding timeline that will resolve issues that the site-specific settings assessment process and subsequent validation strategies identified by the end of the home and community-based settings rule transition period (March 2022).***

Interagency coordination and collaboration for compliance monitoring

In 2016, the Board expressed concerns regarding certain compliance and remediation strategies and made a series of recommendations. The Board was concerned that the elements of the compliance monitoring plan lacked a unifying principle and that activities were disjointed. The STP designated multiple entities with various compliance monitoring responsibilities, which included significant overlap among the entities. The revised STP does a much better job at detailing the specific responsibilities of each entity (DMAS QMR, DBHDS Licensing, CSB staff, Office of Human Rights). In addition, the requirement that all providers have a written HCBS settings rule policy enables the DBHDS Office of Licensure to cite a provider if they do not follow that policy. This is an improvement in accountability processes.

A common complaint levied by providers stems from inconsistencies in the interpretation and application of regulations. This complaint was acknowledged as a continuing area of concern in the revised STP: “*One concern expressed by providers was inconsistent guidance from Quality Management Review staff, Office of Licensing staff, Office of Human Rights staff, and Community Resource Consultants. The need to equalize knowledge and HCBS interpretations/guidance among various entities was clear.”* The Board appreciates that the Commonwealth has incorporated HCBS monitoring throughout all of its systems, rather than as a separate monitoring component. The Board also appreciates the recognition that all entities tasked with implementing the Commonwealth’s compliance monitoring system operate in accordance with a common understanding and deliver a single, unified message to providers.

The Board remains concerned about the multiple units that are responsible for ensuring compliance because it is unclear how they will interact with one another to ensure a holistic review of the setting and the services and supports received by the individuals within this setting. It is unclear whether findings by Quality Management Review are shared with DBHDS Licensure, if human rights violations are shared with QMR, or whether corrective action plans are developed solely by licensure or with input from QMR or OHR, as appropriate. While individual job tasks may be clear, the system itself appears, on paper, to lack coordination and collaboration among the various quality management entities/units. In short, it remains challenging to determine, from the Revised STP, which individual or entity bears the ultimate responsibility and authority to plan, direct, oversee and carry out all of the Commonwealth’s proposed compliance and remediation monitoring activities.

1. **The Board recommends that the STP clearly identify DMAS as the ultimate responsible party that will ensure consistency in the interpretation and application of standards, avoid duplication of efforts, and ensure that that monitoring and remediation activities conform to a single coherent compliance monitoring strategy. The responsibilities and authority of other entities, such as DBHDS, with respect to HCBS rule monitoring should be spelled out in memoranda of understanding or through other mechanisms.**
2. **The Board recommends that the Department develop a list of on-going monitoring responsibilities to be included in the STP, that is (i) organized by the HCBS requirement, rather than by the responsible party like the current table on pages 38-44; (ii) includes a column identifying the monitoring activities and methods that will be used to assess the given HCBS requirement, including information and data collected, and the responsible party that will conduct each method; and (iii) identifies how the responsible party will share the information/data collected and with whom they will share it. This will better enable the Department to take a more holistic look at the monitoring plan and ensure that the totality of proposed monitoring activities comprehensively address each HCBS requirement.**

Remediation Process

The Board supports the new requirement that providers with a history of non-compliance participate in mandatory training or identified technical assistance. However, it is unclear from the revised STP who is responsible for issuing the Corrective Action/Remediation Plans or providing the mandatory training, despite a target date for implementation that is very soon (July 2019). It is also unclear what steps would be taken if a provider continues to be out of compliance following participation in the mandatory training or technical assistance. Would additional training or technical assistance be required? Would other remedial actions, such as fines or provider enrollment freezes, be implemented? At what point will providers’ Medicaid participation agreements be terminated?  
Consistency in the implementation of these processes will facilitate the review and comparison of Corrective Action Plans and enable effective monitoring of their implementation. A comprehensive template was provided in the Appendix related to ADHCs, but there was no reference to this template being utilized for other settings. The timeline and milestone tracking chart is helpful**.**

1. **The Board recommends that the STP be *more* specific with respect to specifying the parties responsible for each step of provider non-compliance identification and remediation, including making by specifying the party responsible for the overall determination that a provider is out of compliance.**
2. **The Board also recommends that a template be developed, if one does not exist, for the submission of the CAPS/remediation plans for all providers. There should be a consistent format and content requirement for all remediation plans that includes milestones, reasonable timeframes for achieving compliance and regular reporting deadlines.**
3. **The Board recommends that the STP include discussion of additional remedial actions for providers, beyond mandatory training or technical assistance, and the circumstances in which each of these actions will be taken.**

Implementation of a Tiered Standard

The Board appreciates that after June 30, 2019, group homes larger than six beds will not be able to enter the HCBS program. The Board hoped that the limit would be four beds, consistent with the Commonwealth’s Settlement Agreement with the Department of Justice. It remains unclear, however, whether settings larger than six beds will still be acceptable in 2022, when all settings must be in compliance with the final rule. There are numerous settings in Virginia that are larger than six beds. There is also at least one intentional “gated” community in development. It is the perspective of the Board that these types of “villages” or gated communities should not receive Medicaid HCBS funds and should be automatically subject to heightened scrutiny, because they seek to isolate individuals from the broader community. The Commonwealth should focus on development of integrated settings consistent with the final rule. Families or providers who wish to develop intentional communities should be free to do so, but should not be allowed to utilize HCBS funding for these sites, because they are inconsistent with the purposes of the HCBS program.

1. **The Board recommends that the Commonwealth set a clear standard for the setting size that will be considered as meeting the HCBS rule, which would preferably be four beds, but no greater than six. Any setting greater than that standard should be required to go through some type of heightened scrutiny process, if not at the federal level, then at the state level.**
2. **The Board recommends that all gated or intentional communities for people with developmental disabilities be submitted for heightened scrutiny should they request to receive Medicaid HCBS funding.**

Complaint Process

In its 2016 comment, the Board expressed concern about the lack of clarity with respect to individuals and families filing complaints or reporting HCBS rule violations. The Board is pleased to see that an entity has been designated as the recipient of all complaints. At this time, we have no position as to whether the designated entity, the DBHDS Office of Human Rights, is the most appropriate to undertake this responsibility.

1. **The Board recommends that the complaints process be communicated in a very clear manner to individuals and families, be as simple as possible, and be included along with other human rights information provided during annual and other periodic reviews. It should be easily found on-line.**
2. **The Board recommends that Office of Human Rights staff be trained and educated on how to address these complaints, which will differ in some circumstances from the human rights violations they are used to receiving and processing.**
3. **The Board also recommends that the STP include more specific explanation as to how the Office of Human Rights will receive complaints and reports of non-compliance, investigate alleged violations, and remedy violations with prompt corrective action.**
4. ***A detailed plan for identifying settings that are presumed to have institutional characteristics, including qualities that isolate HCBS beneficiaries, as well as the proposed process for evaluating these settings and preparing for submission to CMS for review under Heightened Scrutiny.***

The Board does not have any comment on the actual plan. Sufficient explanation has been provided with respect to determining presumed institutional settings and the process for submitting these to CMS for review under Heightened Scrutiny. The Board does note, however, that the Revised Transition Plan does not provide the number of settings that were presumed institutional. There is an “X” where that number should be located. In the next section, *Transition of Beneficiaries from Non-Compliant to Compliant Settings,* that number is noted to be 66.

However, the Board is concerned that the two ADHCs, Bedford Adult Day Services and Riverside Adult Day services, were taken off the list of settings deemed institutional in nature because they are on the grounds of a private, as opposed to a public institutional settings. CMS provided the following response when this question was asked: Are settings on the grounds of or adjacent to "private" institutions considered not to be home and community-based (HCB)? 

Answer: It depends. Settings that are on the grounds of or adjacent to a private institution are not automatically presumed to have the characteristics of an institution. However, if the setting isolates the individual from the broader community or otherwise has the characteristics of an institution or fails to meet the characteristics of a home and community-based setting, the setting would not be considered to be compliant with the regulation. States will need to assure that these settings fully comply with the requirements of § 42 CFR section 441.301, 441.530 and 441.710 to qualify for Medicaid reimbursement under 1915(c), (i), or (k) as noted in the transition plan. A state’s assessment of settings that isolate should be informed by the public comments received prior to submission of the transition plan. Also, states may elect to adopt more stringent settings characteristics that would not allow a setting to be on the grounds of a private institution. [For further information on this topic, please refer to this document](http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-TermServices-and-Supports/Home-and-Community-Based-Services/Downloads/Settings-thatisolate.pdf).

These ADHCs may not meet the public institution criteria, but they may meet the criteria of isolating the individual from the broader community. Therefore the Board recommends that:

1. **DMAS should examine whether Bedford Adult Day Services and Riverside Adult Day Services should be subject to heightened scrutiny under the principle related to whether a setting isolates the individual from the broader community or otherwise has the characteristics of an institution or fails to meet the characteristics of a home and community-based setting.**
2. ***A process for communicating with beneficiaries who are currently receiving services in settings that the state may determine cannot or will not come into compliance with the home and community-based services settings rule by March 2022.***

90-Day Timeline for Relocation

The Board is concerned that the proposed 90-day advance notice for relocation may not be sufficient for some individuals. While 90 days is likely adequate notice for most individuals, it may take more time to transition individuals for whom it is challenging to find an appropriate provider. For example, individuals transitioning from a residential setting may have a complex array of factors to consider, including arranging and paying for the relocation of personal belongings, making home modifications, identifying transportation options from the new residential setting to places for work or recreation, arranging for the relocation of any services received in the residential setting, and identifying any available support networks in the new area.

1. **The STP should require an extended notification period beyond 90 days when it is clear that it will be difficult to find a provider for an individual and/or should explicitly state in the STP that extensions will be considered if selecting a new setting or the provider experiences delays in being able to serve the individual.**

Length of Visits to Potential Providers

The Board is pleased to see that support coordinators will arrange for the individuals to visit potential providers they are interested in. However, the STP does not clarify how long the visits may last. If an individual chooses a residential setting, overnight visitations should be offered to ensure that the setting meets all of the individual’s needs and desires.

1. **The STP should explicitly allow for multiple and overnight visits at residential settings, if desired by the member, when visiting potential providers during the transition period.**

Financial Assistance for Expenses Related to Relocation

The Board is pleased that flexible funds were provided to assist individuals who transition to a new residential setting. According to the STP, these funds can be used for temporary rental assistance, housing transition services and supports (including moving costs), non-reimbursable environmental modifications, non-reimbursable assistive technology, and temporary support staffing. However, this funding was only provided to six community service boards. Individuals who live in other areas should also be able to receive relevant assistance when needed.

1. **The Commonwealth should expand the availability of flexible funds in order to assist individuals in all areas of the Commonwealth.**
2. ***Ongoing monitoring and quality assurance processes that will ensure all settings providing HCBS continue to remain fully compliant with the rule in the future.***

The Board appreciates the inclusion in the STP of the listing of all settings that will be submitted for heightened scrutiny. With respect to this transition period, in order to avoid provider disenrollment, DMAS should quickly intervene when it is clear that the remediation plan is behind schedule or will not be successful based on submitted monitoring reports. This will ensure that providers make measurable and steady progress towards achieving compliance ahead of CMS deadlines and avoid unnecessary provider disenrollment due to a failure to adequately plan for necessary transition activities.

The Board commends the Commonwealth for creating a database to collect and track information about provider compliance. The information contained in this database, as well as information about complaints received and investigated, should be made public to the greatest extent possible. Ideally, this information would be presented via an accessible dashboard that will allow individuals to stay apprised of the Commonwealth’s progress towards achieving compliance and the efforts expended towards achieving that goal.

1. **The Board recommends that the Commonwealth ensure that its ongoing compliance assessment and monitoring activities are conducted in an open and transparent manner.**

The Board appreciates the work that has gone into developing the Commonwealth’s Revised STP, and is grateful for the opportunity to offer recommendations for improving it. We look forward to continuing to work with DBHDS, DMAS, and stakeholders as the Commonwealth moves towards compliance with the HCBS regulations to ensure the transition is smooth and successful. As always, we would appreciate being included in any interagency workgroups, stakeholder groups, or any other groups developed for the purpose of implementing or monitoring the Commonwealth’s compliance with the settings regulations.