Alabama Statewide Transition Plan
Public Comment Summary and State Response

Comment submitted by an individual about the use of Technology, dated 3/14/22:
The comment noted the need to enhance opportunities to use technology to better capture an individual’s progress and meaningful outcomes. The Alabama Department of Mental Health (ADMH) appreciates and agrees with the comment. Over the past year, ADMH has been in the process of evaluating its Case Management/Service Coordination system to better align its reporting and claims billing requirements with accountable, efficient and meaningful service delivery. As a result, ADMH released a Request for Proposals (RFP) in January 2022 and a vendor was selected in April 2022 for this purpose.

To provide context to the comments summarized below, on 9/30/21, and pursuant to CMS guidance issued on March 22, 2019 and July 14, 2020 regarding the requirements and processes for heightened scrutiny, the Alabama Medicaid Agency (AMA) posted for public comment the findings of the State’s review related to settings that were determined by the State to have isolating characteristics but had not yet remediated as of 7/1/21. Based on the CMS guidance that states should report findings regarding these presumed institutional settings no later than 10/30/21, these data were, of necessity, posted in advance of the submission of the full STP. While the 9/30/21 posting did not include a comprehensive description of the overall STP, the State did provide a detailed description of the processes employed to complete the settings assessments that informed the posted lists. Therefore, the initial ADAP comment that the State did not provide a full description of the STP was premature. On 2/28/22, AMA posted the full STP for public comment, with a comprehensive description of the processes, tools and strategies used for setting self-assessment, state compliance validation and remediation.

The State’s Protection and Advocacy program, the Alabama Disabilities Advocacy Program (ADAP) provided comment on both postings. The first, submitted on 10/28/21, was a voluminous comment document that called into question both the procedures for identifying presumptively institutional settings as well as the findings with regard to those settings that had remediated. The ADAP document also provided some provider-specific, rather than setting-specific, comments for a small number of certain providers. In all, this initial ADAP response to the request for public comment made specific comments for four providers that were subject to the transition process, for which its staff had made some level of review from the period of May 2021 through October 2021. These included Ability Plus, Eagle’s Wings, Nobles Group Homes and Rainbow Omega. A fifth provider (Frenchtown) began operations after the promulgation of the HCBS Settings Rule in March 2014 and was therefore required to be in compliance from the beginning and not eligible for a transition period. On 3/28/22, ADAP and several other co-signers, including representatives of People First of Alabama, TASH Alabama and Self Advocates Becoming Empowered, submitted an additional comment. This comment reiterated many of the same procedural and outcome concerns. (Of note, a separate and much more brief comment from an individual commenter reflected similar issues.)
Overall, AMA and ADMH (i.e., the operating agency for the waivers serving individuals with intellectual disabilities) were surprised by the nature of these negative public comments when the signatories have been regular and active participants, alongside staff from both AMA and ADMH, of the HCBS Stakeholder Task Force and its work groups since their inception in early 2018. These signatories have also been regular active members of the ADMH Developmental Disabilities Coordinating Subcommittee and other planning committees where HCBS compliance work, including the validation and remediation tools, the proposed heightened scrutiny procedures, and reporting of ongoing compliance status of settings have also been regularly discussed. The State would have appreciated these in-depth comments from these stakeholders earlier in the compliance work so that they could have been addressed in a more timely manner. With this said, AMA and ADMH offer these responses to the comments below:

First, AMA noted that the ADAP comments addressed certain procedural public notice requirements. The State feels some of these might be the result of a different interpretation of the expectations. For example, ADAP indicated that the State’s posting did not provide documentation to show why it deemed specific settings had overcome the institutional presumption. However, based on the SMD Letter #19-001 regarding Heightened Scrutiny, dated 3/22/19, if the State initially determined that a setting had the effect of isolating individuals and that setting implemented remediation to comply with regulatory criteria to the State’s satisfaction by 7/1/20 (later modified to 7/1/21), then there would be no need to submit information on that setting to CMS for a heightened scrutiny review. SMD Letter #19-001 instead required that the State provide a list of settings, if any, that the State previously identified as presumptively institutional due to isolation, but subsequently demonstrated compliance with the settings criteria by 7/1/20 (later changed to 7/1/21), along with a statement that information supporting remediation for those settings is available upon request. The State’s submission was consistent with this requirement. Of note, on 1/31/21, AMA responded to a blanket request from ADAP for information for all settings, regardless of their assessed compliance status. The State’s response noted the ADAP request involved over 1,200 settings, including multiple documents for each, and estimated it would require ADMH to redirect at least one entire division to produce the approximated 35,000 pages. As a result, due to the size and volume of the request, the State could not respond at that time. ADAP has not thus far issued any further, more manageable request.

In addition, in the submission dated 2/28/22, ADAP commented that the State did not adequately or meaningfully engage with the public comment period, noting that it was very widely disseminated via internet but also available for review at the local Alabama Medicaid District Offices; the local Aging and Disability Resource Centers; and the local DD 310 Boards. The State feels the public comment procedure met the regulatory requirements, at a minimum. But, as ADAP points out in its comment, Alabama is a rural state with some internet access limitations; it has always been a standard practice to also rely in part on providers, advocacy groups and others to help disseminate this type of information and to help explain its meaning and impact. The ADAP comment failed to note that AMA and ADMH made numerous notices to stakeholders in various meetings and encouraged them to assist in further publicizing the STP and facilitating comment.
In a related vein, AMA and ADMH officials were surprised by ADAP comments that stakeholders, including providers, families, beneficiaries and even ADMH staff were unaware of the HCBS Rule and related compliance activities. As described in the STP, numerous and various methods have been developed by the Education and Advocacy Work Group to educate stakeholders and to disseminate HCBS information, including public forums and development and distribution of materials targeted specifically to certain groups. Like the larger HCBS Stakeholder Task Force, members of the Education and Advocacy Work Group include representation from families, self-advocates, providers, advocacy groups and ADMH staff. It has been the understanding that these members, both collectively and in their individual capacities, would promote and educate their constituency about the HCBS Rule and related compliance activities.

The remainder of this response focuses on the comments related to the State’s plans for assessing and ensuring HCBS Rule compliance. At the time of the October 2021 ADAP comment, AMA responded that the State had made an initial review of those comments and would be working to clarify and resolve any concerns. In particular, with regard to the specific comments for certain providers, consistent with the public comment process the State designed for this purpose, AMA planned to review and, where needed, to request additional information from ADMH to show that the compliance validation processes determined the providers’ settings met the applicable standards. If AMA agreed with the ADMH finding, AMA planned to re-submit settings for public comment with the additional information included. If AMA did not agree with the ADMH finding, settings would be required to undertake further remediation to resolve the deficient areas. Finally, for the fifth provider for which ADAP provided specific comments, AMA has referred that back to ADMH for a review of the certification and monitoring processes the Operating Agency undertook to document compliance.

While the ADAP comments noted that, for the most part, its review was based on a sample of the providers’ settings, it did not identify or otherwise reference the specific settings. It was therefore unfortunate that AMA was not consistently able to complete a setting-specific review of ADAP’s concerns. Instead, AMA requested that ADMH identify all settings operated by the four named providers. From that list of 62 settings, the State chose a random sample of 13 of the providers’ transition eligible settings for an initial round of additional scrutiny. In turn, for those settings, ADMH gathered the documentary evidence that the State’s STP proposed to use for Heightened Scrutiny reviews (see page 27 of the STP). In effect, this review process also served as a test-run of the efficacy of the proposed Heightened Scrutiny methodology.

The review began with the identification of settings in January 2022 and was fully concluded in March 2022. Based solely on the documentation reviewed, AMA identified at least some aspects of non-compliance for settings. These included policies and procedures that were either silent on certain requirements or in conflict with them; some person-centered plans that did not effectively support the identification and implementation of opportunities to support individuals’ preferences for community integration and/or community employment; and a lack of consistent documentation across several areas. This lack of documentation ranged from the actual community experiences of individuals supported in the setting and the implementation of due process related to modifications of the Rule’s requirements for some individuals to a lack of sufficient detail in the ADMH validation tools. Overall, these findings often
did not support the Operating Agency’s reporting of Prong 3 compliance for the individual settings in this review.

When AMA presented its specific findings to ADMH, key staff from that agency also reviewed the documentary evidence and concurred. As a result, the two agencies met continuously throughout the ensuing months to review the various processes, including the compliance validation and monitoring tools, and to develop a multi-pronged strategy to remediate and improve. As the strategy evolved, for transparency and feedback, AMA and ADMH shared the review findings and the outlines of the plan with stakeholders, including the signatories to the most recent ADAP submission, at regularly scheduled meetings. The following outlines the underlying conceptual framework, assumptions and key elements of the overall strategy, which are intended to address the concerns outlined in both ADAP public comment submissions.

- Upon review, the State determined that the compliance validation and monitoring tools and procedures described in the STP were conceptually sound, and that this was consistent with their review and approval by the Stakeholder Workgroup. As a result, the State will not make significant revisions to the STP in that regard.

- However, the State was able to identify some flaws in the implementation of the tools and procedures, some of which required a systemic approach to remediation and improvement. First, the tools were not always used as indicated, and sufficient documentation was at times unavailable to demonstrate compliance. This indicated a lack of adequate training and preparation provided to the staff responsible for implementation. Second, the system-level oversight failed to fully detect the scope of these concerns, which in turn caused missed opportunities to provide needed technical assistance to settings. This indicated a need for more formal and robust oversight of the processes and state-level validation of their outcomes, as well as an enhanced capacity for training and technical assistance to settings and their stakeholders. All of these concerns were folded into a multi-pronged strategy, including a focused re-assessment of a sample of the approximately 700 Prong 3 settings previously deemed to have remediated, and a comprehensive HCBS Quality and Compliance Improvement Plan, also with multiple strategies. These are hereby incorporated into the State’s STP by reference.

- To address the public comments concerns about the accuracy of STP reporting on the compliance status of settings deemed to have remediated their isolating characteristics by 7/1/21, additional scrutiny is being applied, as follows: ADMH is undertaking an additional review of a random sample of settings, including those that were deemed to have remediated and new settings that were required to be in compliance from the outset. AMA selected a random sample of settings to achieve a 95% confidence level. The sample was also stratified and weighted by provider size. For example, since providers with 25 or more settings represented 47% of all settings, AMA chose 47% of the sample settings from that group. This review is being conducted independent of the Developmental Disabilities Division by a team of Internal Advocates under the administrative direction of the ADMH Commissioner and supervision of the Internal Advocacy Director. The process includes document
reviews (e.g., policies and procedures, Individual Experience Surveys (IEA) and person-centered planning documents) and on-site observations and interviews. The advocacy staff have received training from both Medicaid and ADMH staff, supplemented by special training on Person-Centered Planning by Inclusa. The Advocacy Review will take place between 6/27/22 – 9/30/22. Findings will be reported bi-weekly to the DD Associate Commissioner and regional staff, as well as to providers, Support Coordination agencies and AMA. AMA will also review a sample of all the Advocacy reviews for oversight and quality assurance. Upon AMA review, the State will re-post for public comment any setting found to have a change in the previously-reported compliance status.

- The full HCBS Quality and Compliance Improvement Plan is attached for review and has been widely shared with ADMH’s stakeholders. It includes expanded training, technical assistance and multi-level oversight. Many of the actions in the plan are already underway. In summary, the components of the plan include the following:
  o The Individual Experience Survey (IEA) has been revised to better probe individuals’ actual experience of community involvement and integration. ADMH has begun providing additional training to Support Coordinators, for both newly hired and existing staff. ADMH Support Coordination Liaisons will use a Person-Centered Assessment and Plan Feedback and Monitoring Tool to complete a monthly sample of Support Coordinators’ implementation of the IEA, with data to be provided to both ADMH and AMA. State level staff will review a sample of the findings for validation.
  o Support Coordination Liaisons will also use the above referenced-tool to implement their monitoring of all other aspects of the PCP, including the assessments and the plan itself. Support Coordination Agencies will use the same tool to complete their own internal quality reviews. The data from all of these reviews will be entered into the ADMH information system for review and analysis, with results made available to AMA. AMA will select a sample to review on a quarterly basis.
  o The Monitoring and Certification tools, as referenced in the STP, have been modified as needed to enhance the ability of staff to probe and document compliance with HCBS requirements. These include, but are not limited to, lease agreements and other mandatory requirements defined in the CMS recalibrated strategy.
  o ADMH and AMA have created an initial set of Provider Compliance Checklists designed as a tool to assist settings to assess, confirm and document their level of compliance with the specific requirements of the Home and Community-Based Settings (HCBS) Rule that must be in place by 3/17/23. Additional Checklists to help providers address the remaining HCBS Rule requirements will be forthcoming in the near future. Each of the twelve Checklists addresses one or more of these mandatory requirements. Each is also accompanied by a guidance document with several sections. What This Looks Like in Practice is intended to help providers consider some of the factors that would demonstrate compliance, including both “dos and don’ts” to think about. ADMH-DDD Guidance includes links to related rules, guidelines and tools the agency has developed and that will add to the provider’s understanding of HCBS compliance expectations. Source Documents/Other Tips, Tools and Ideas provides links to more good resources from CMS and other states that can perhaps help providers problem-
solve and brainstorm about strategies to ensure compliance. All ADMH and provider staff have received training on the tools, which are to be completed no later than 8/30/22.

- AMA has provided additional training to ADMH staff and providers on the requirements and processes for collecting and documenting valid and reliable data with regard to HCBS compliance status.

- The results of all of the above strategies will be analyzed on an ongoing basis by both ADMH and AMA to assess and develop further technical assistance and training needs for settings remediation. While this is the front-line strategy for working with settings that are not compliant, ADMH has also clarified that other enforcement actions are possible if providers fail to implement the needed improvements.

- In addition, AMA is working with ADMH and others to broadly disseminate an electronic survey to stakeholders to obtain their feedback about awareness of the HCBS Settings Rule, the status of the Rule’s implementation and opinions about ongoing training and technical assistance needed to continue to work towards full compliance. AMA is also using the survey to provide additional outreach and education to stakeholders about the Rule requirements. The survey includes a section designed to specifically solicit feedback from people receiving waiver services about their actual experiences. Based on feedback from the Education and Advocacy Workgroup, the survey is available to those individuals in hard copy as well. The Workgroup is also developing and publicizing Town Hall meetings in all five ADMH Developmental Disabilities regions to facilitate dissemination of the survey to this target population. The data from the survey, which will remain open for the foreseeable future, will also be analyzed on an ongoing basis by AMA to assess and develop further stakeholder education, technical assistance and training needs for settings remediation.

https://www.surveymonkey.com/r/alabama_medicaid_HCBS_survey

The following paragraphs provide additional responses to specific ADAP comments addressing systemic initiatives the State expects will support the full implementation of the STP. The ADAP comment noted the State’s undertaking of a variety of pilots, projects, and new programming to work toward compliance with the Settings Rule, but believed the actual implementation and outcomes had been severely lacking. In response, the State notes that over the last two years, ADMH has undertaken a major transformation of its service system to increase service options, ensure person-driven decisions and promote community integration and independence of those served. Such transformation requires time to change cultures and time to educate both those providing services and those receiving services about the many possibilities and opportunities that exist. The momentum was certainly slowed by the COVID-19 public health emergency, but the State’s commitment to the transformation efforts remains strong.

- **Additional Ongoing Training and Remediation for Person-Centered Plans:** The following provides additional background and response to the ADAP comment that the ADMH 2019 person-centered planning pilot program and the 2020 update did not result in the creation of meaningful future goals for the waiver beneficiary which could be achieved with appropriate supports as identified in the person-centered plan. Specifically, the submitted comment noted the following deficiencies: a lack of buy-in from support coordinators, a lack of meaningful goals and plans
focusing on individuals’ wants and needs, and insufficient access to all waiver services. ADMH officials acknowledge that the 2019 person-centered planning pilot program was not as successful as planned. However, ADMH took the data and issues identified by the 2019 pilot to inform the development and implementation of Person-Centered Planning Process. In late 2019, ADMH collaborated with Annova, a consultant group, to develop a strategic plan for the development of a Person-Centered Planning System specific to Alabama. Through this collaboration, a Policy Vision for Person-Centered Planning was developed in December 2019 and shared with stakeholders in January 2020.

The Person-Centered Assessment and Plan (PCAP) format was developed in collaboration with NCAPPs, Annova, national subject matter experts, and stakeholders within the first eight months of 2020. Additionally, ADMH utilized the following resources to inform the development of the PCAP: HCBS requirements established by CMS, core competencies of PCP as identified by the National Quality Forum – Person-Centered Planning and Practice, strength-based perspective and stakeholders’ feedback. The first PCAP training occurred in August 2020 with ADMH staff to ensure internal staff were knowledgeable about the new Alabama PCAP and the requirements set forth by the HCBS regulations for the same. The Alabama PCAP includes the following five domains: Daily Living, Community Living, Community Connection, Healthy Living and Self-Determined.

In September of 2020, 250 Support Coordinators and ADMH staff were trained on the new person-centered assessment and planning process. This training provided the foundational principles of strength-based perspective, the five domains of the PCP, conversation guide, person-centered assessment, and person-centered plan. ADMH required all agencies to use the standardized PCAP format and process for person centered assessment and planning beginning October 1, 2020, with the expectation that all individuals enrolled in the ID/LAH waivers would benefit from the new PCAP process at redetermination. It is important to note that this transition also included the shift of complete facilitation and development of an individual’s PCAP to the individual and/or Support Coordinator. As part of its technical assistance, training, and remediation strategies, ADMH continues to provide PCP trainings every six weeks for new hire Support Coordinators and ADMH staff. (A compatible training for direct service providers is currently under development). In addition, meetings and trainings with Support Coordination Supervisors have been increased from quarterly to monthly to address issues with PCP process and to provide additional training.

For quality review purposes, ADMH revised its monitoring tool to provide feedback to Support Coordination agencies about their PCPs and records of individuals; increased monitoring of Support Coordination agencies from bi-annual to quarterly; and increased the number of records reviewed from five per agency to five percent of the individuals supported by the agency in the county. The data obtained using the PCP Feedback and Monitoring tool provides qualitative and quantitative information about the PCPs developed. The data is entered into ADMH’s electronic record system, and aggregated reports are produced to evaluate effectiveness of the PCP Transformation.
In November 2020, the PCP workgroups consolidated into a Strategic Steering Stakeholder Group, with representation from the direct service provider network, the Support Coordination provider network, ADMH staff, self-advocates, and family members, and continues to identify trends, barriers and other issues needing attention due to the transformation.

ADMH’s certification review tools and provider organizational guidelines for Person Centered Planning have also been reviewed through the stakeholder engagement process and are now in alignment. A meeting held in January 2022 shared these new tools with approximately 300 Support Coordination/direct service providers and ADMH staff. ADMH’s certification review of Support Coordination agencies began using the new tools in February 2022.

- **Community Waiver Program (CWP):** The ADAP comment noted delays in the implementation of the CWP and concerns about provider capacity, including adequately trained Support Coordinators. ADMH agrees that delays with CMS approval of the CWP, the pandemic and significant work force shortages for providers adversely impacted the roll out of this waiver. However, as of 7/19/22, 139 individuals have been enrolled in the new waiver and are receiving services. There are 39 Preferred Qualified Providers certified to deliver CWP services in the 11 counties served by the CWP. To address some of the challenges faced with the implementation of the CWP, ADMH is offering provider financial incentives to address staff shortages; competency-based training for provider staff through QuiltSS and Columbus Group; evaluating a new RFP for additional needed CWP providers; and employing and/or assigning additional ADMH staff to be dedicated to the CWP.

- **Community Day and Employment Services:** The 2/28/22 ADAP comment stated that the State had not sufficiently shifted away from facility-based services. As noted in the STP, ADMH began expanding and remodeling its community day services in 2019 to be less dependent on facility-based day program models and to offer beneficiaries more service choices that promote community integration and independence. This transition led to the addition and/or expansion of in-home services, self-directed services, community day and employment services. As reflected in the table below, over the past two years, there has been a steady increase in the utilization of in-home, self-directed and community day services and a concurrent decrease in the use of facility-based services.

The comment further stated that, with the COVID-19 pandemic, there has been a dramatic negative impact on access even to facility-based day services. As might be expected, with the increased utilization of other community day services, and the concurrent decrease in the utilization of facility-based day services, the number of facility-based settings has also decreased. For example, in March 2020, there were 112 facility-based day programs compared to 64 such programs at present. However, in March 2020, there were no individuals receiving community-based day habilitation, but as of March 2022, 849 individuals were receiving the community-based service. ADMH continues to prioritize expansion of community-based day services rather than re-
instituting additional facility-based programs. In addition, a growing number of the existing facility-based day program settings are expanding their service options to also include community day services for individuals they serve. To date, 36 of the 64 facility-based settings also offer community-based options.

In addition, recent data show that, as of 6/30/22, there is increased utilization of community employment services as compared with pre-pandemic data. A comparison between FY20 and just the first nine months of the current FY22 is reflecting a 2% increase in employment service utilization.

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Attachments to Public Comment Response
7/29/22