

# Summary of Changes to Consolidated, P/FDS and Adult Autism Waivers

## Based on Public Comment

This summary does not include minor wording changes that were made throughout the document to improve clarity. Significant changes are noted below.

<i>Changes Made to the Consolidated, Person/Family Directed Support and Adult Autism Waiver Transition Plans</i>	
<b>Section 1: Identification</b>	
<b>Change Made</b>	<b>Reason for Change</b>
Removed action to develop a comprehensive list of Residential Habilitation, Prevocational and Licensed Day Habilitation service providers.	These action items were removed to reflect that the physical location of where a provider is rendering services may not be the only factor that determines whether a setting is unallowable. ODP will hold a stakeholder input process to determine what characteristics (which could include physical location) have the effect of isolating individuals and what characteristics are home and community-based. If it is determined that the physical location of where a provider renders service is unallowable, the transition plans will be updated to reflect that decision.
Removed action to develop a comprehensive list of ICFs/ID, nursing facilities, state hospitals and medical hospitals.	
Removed action to develop a comprehensive list of publicly or privately owned facilities that provide inpatient treatment and public institutions	
Added the development of a comprehensive list of all waiver providers.	This action item was added to reflect that all waiver providers will be sent surveys and will be assessed for compliance with the policies and guidance developed.
<b>Section 2: Assessment</b>	
Added that the Department of Human Services will collaborate with the Office of Vocational Rehabilitation, the Department of Education and other departments and offices as necessary.	This action item was revised to reflect more of the agencies that the Department plans to collaborate with or is already collaborating with.
Added the development of a waiver provider survey and collection and analysis of data from the survey.	This action item was added to assist the Department of Human Services to get an overall understanding of the settings in which waiver services are being provided and help to determine the specifics of future assessment activities and inform policy development.
Added analysis of the fiscal impact of changes.	This action item was added to reflect that ODP will analyze whether any changes made have a fiscal impact to providers.
<b>Section 3: Remediation Strategies for Unallowable Settings</b>	
The remediation strategy section was completely revised to reflect that the location where services are provided will not be the only factor considered when determining if a setting is unallowable. The unallowable setting section and the settings	This section was revised based on public comment and recent guidance from the Centers for Medicare and Medicaid Services (CMS) that states the federal regulations <u>do not</u> prohibit facility-based or site-based settings. The regulation

presumed not eligible section are now identical.	requires that all settings, including facility- or site-based settings, must demonstrate the qualities of Home and Community-Based settings, ensure the individual’s experience is Home and Community-Based and not institutional in nature, and does not isolate the individual from the broader community. The first action item in this section is for ODP to develop policy with stakeholder input regarding settings that have the effect of isolating individuals receiving Home and Community-Based services from the broader community of individuals not receiving Home and Community-Based services and settings that will be considered home and community based. Once this policy is developed it will be sent to CMS for review.
Added public comment period for regulatory revisions.	This action item was inadvertently left out of the transition plans and has been added in.
Added the definition of access issue	Access issues are now defined in the transition plans as “the inability of an individual/family to locate a willing and qualified service provider and/or the inability of an Administrative Entity/Supports Coordination Organizations/Supports Coordination Agencies to secure a willing and qualified provider for individuals requesting services.”
Added public notice of CMS Heightened Scrutiny Determination.	Per CMS requirements, when a determination has been made that providers meet CMS regulations, ODP will submit the list of providers to CMS. CMS will then determine whether they agree or disagree with ODP’s determination through a “heightened scrutiny” process.
<b>Section 3: Remediation Strategies for Settings Presumed Not Eligible</b>	
Added public comment period for regulatory revisions.	This action item was inadvertently left out of the transition plans and has been added in.
Added the definition of access issue	Access issues are now defined in the transition plans as “the inability of an individual/family to locate a willing and qualified service provider and/or the inability of an Administrative Entity/Supports Coordination Organizations/Supports Coordination Agencies to secure a willing and qualified provider for individuals requesting services.”
Added public notice of CMS Heightened Scrutiny Determination.	Per CMS requirements, when a determination has been made that providers meet CMS regulations, ODP will submit the list of providers to CMS. CMS will then determine whether they agree or disagree with ODP’s determination through a

	“heightened scrutiny” process.
<b>Section 3: Remediation Strategies for All Settings Must Meet the Following Qualifications</b>	
Added that an Executive Order on Employment will be drafted and published.	Pennsylvania is a participant in the Employment First State Leadership Mentoring Program, a program conducted by the Federal Office of Disability Employment Policy. Under this program grant, technical assistance from national subject matter experts will be provided to Pennsylvania to develop an Executive Order on Employment that will clearly articulate employment principles for people with all disabilities. This is a collaborative effort with all PA Medicaid agencies, the Pennsylvania Department of Education, the Office of Vocational Rehabilitation, and the Bureau of Workforce Development participating.
Added that stakeholder input will be sought when developing expectations regarding meaningful day opportunities in non-disability specific settings.	Involvement of stakeholders was inadvertently left out of this action item and has been added in.
Added that providers will be assessed for compliance with the federal requirements.	This action item was inadvertently left out of the transition plans and has been added in.
Added that waiver provider agreements may be terminated if a provider is found to be noncompliant during on-site monitoring and the resulting Corrective Action Plan/Plan of Correction.	This item was inadvertently left out of the transition plans and has been added in. ODP is provided authority to implement this sanction under 55 Pa. Code §51.152 (a) (7).
Added that ODP will identify where required information regarding what will be documented in the Individual Support Plan when a modification to a requirement is needed.	CMS regulations allow for modifications to certain regulations when specific information is documented in the Individual Support Plan. This action item was originally included in some sections of the transition plan but not in all pertinent sections.
<b>Section 4: Outreach and Engagement</b>	
The description was revised to reflect that this section will describe how stakeholders will be involved in the development and implementation of the transition plan.	ODP intends to engage stakeholders in more than just obtaining comments on the transition plans. This section has been revised to reflect that intent.
Individuals with an intellectual or developmental disability and families were added to the list of stakeholders that will have the opportunity to receive training regarding updates and revisions to Pennsylvania’s regulations, policies and procedures.	Involvement of individuals and families was inadvertently left out of this action item and has been added in.
Added that ODP will provide ongoing engagement with service providers to help build capacity for provision of services in more integrated settings.	This action item was originally only stated in the all settings must meet the following qualifications section. This action item was moved to Outreach and Engagement to reflect that it is a step that potentially needs to be completed for all service providers.

*Changes Made to the Consolidated and Adult Autism Waiver Transition Plans*

**Section 3: Remediation Strategies for Requirements for Provider-owned or Controlled Home and Community-Based Residential Settings**

Added public comment period for regulatory revisions.	This action item was inadvertently left out of the transition plans and has been added in.
Added that providers will be assessed for compliance with the federal requirements.	This action item was inadvertently left out of the transition plans and has been added in.
Added that waiver provider agreements may be terminated if a provider is found to be noncompliant during on-site monitoring and the resulting Corrective Action Plan/Plan of Correction.	This item was inadvertently left out of the transition plans and has been added in. ODP is provided authority to implement this sanction under 55 Pa. Code §51.152 (a) (7).
Added that ODP will identify where required information regarding will be documented in the Individual Support Plan when a modification to a requirement is needed.	CMS regulations allow for modifications to certain regulations when specific information is documented in the Individual Support Plan. This action item was originally included in some sections of the transition plan but not in all pertinent sections.