

# South Dakota Home and Community Based Services Assessment Results and Draft Transition Plan

South Dakota Department of Social Services  
Division of Medical Services



# HCBS FINAL RULE

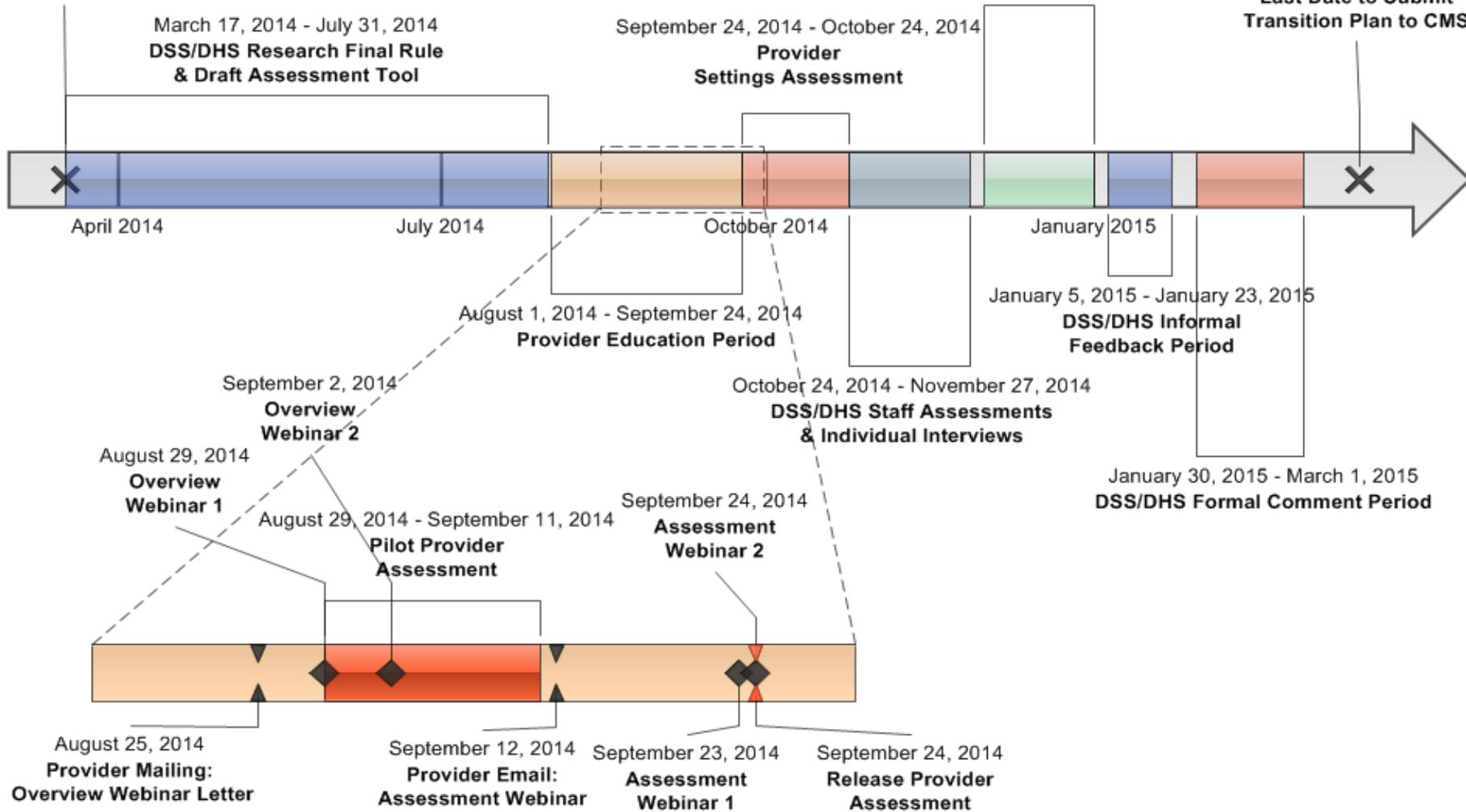
- **CMS Published:** January 16, 2014
- **Effective Date:** March 17, 2014
- **CMS Final Rule Intent:**
  - Maximize the opportunities for participants in Home and Community Based Services (HCBS) programs to have access to the benefits of community living.
  - Allow participants to receive services in the most integrated setting.
- **All states required to submit a Transition Plan to CMS on or before March 17, 2015.**
- **Required components of the Transition Plan:**
  - Description of State Assessment of Compliance with HCBS Requirements & Outcome of Assessment
  - Description of Remedial Actions to Ensure Compliance with HCBS Requirements
  - Timeframe and Milestones for Remedial Actions
  - Description of the Public Input Process

# SOUTH DAKOTA TIMELINE

March 17, 2014  
Effective Date  
of Final Rule

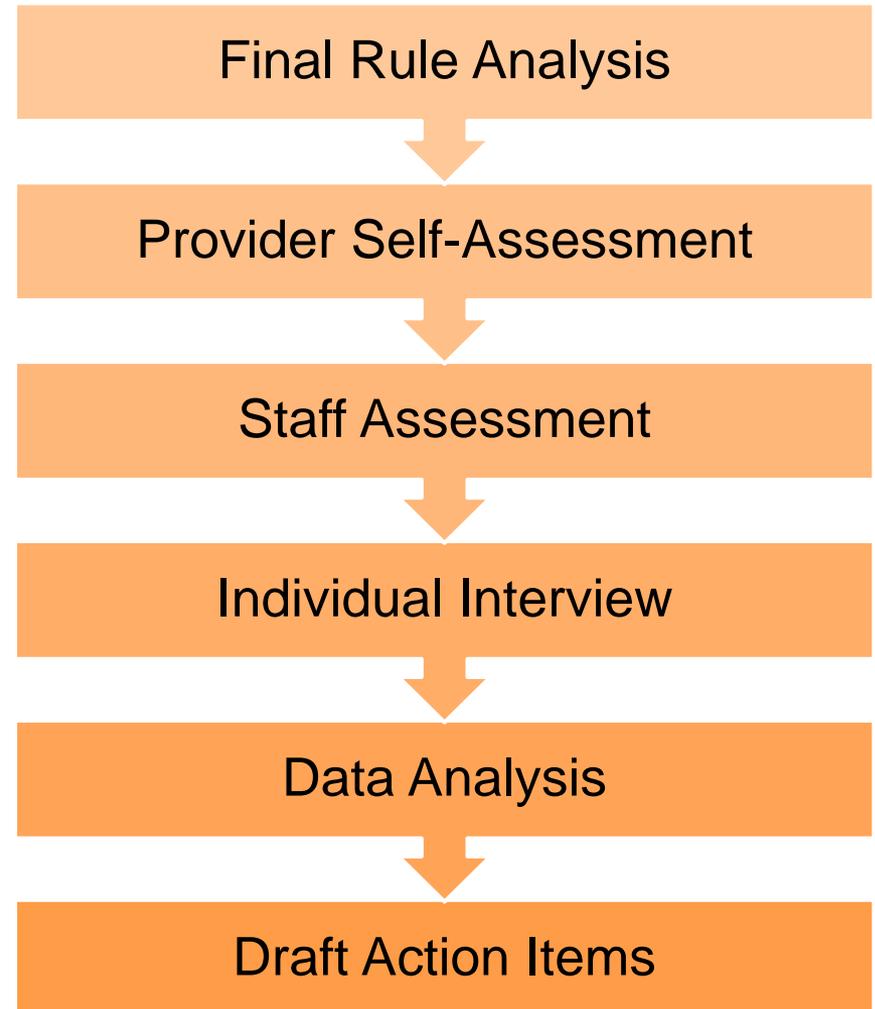
December 1, 2014 - January 1, 2015

March 17, 2015  
Last Date to Submit  
Transition Plan to CMS



# ASSESSMENT PROCESS

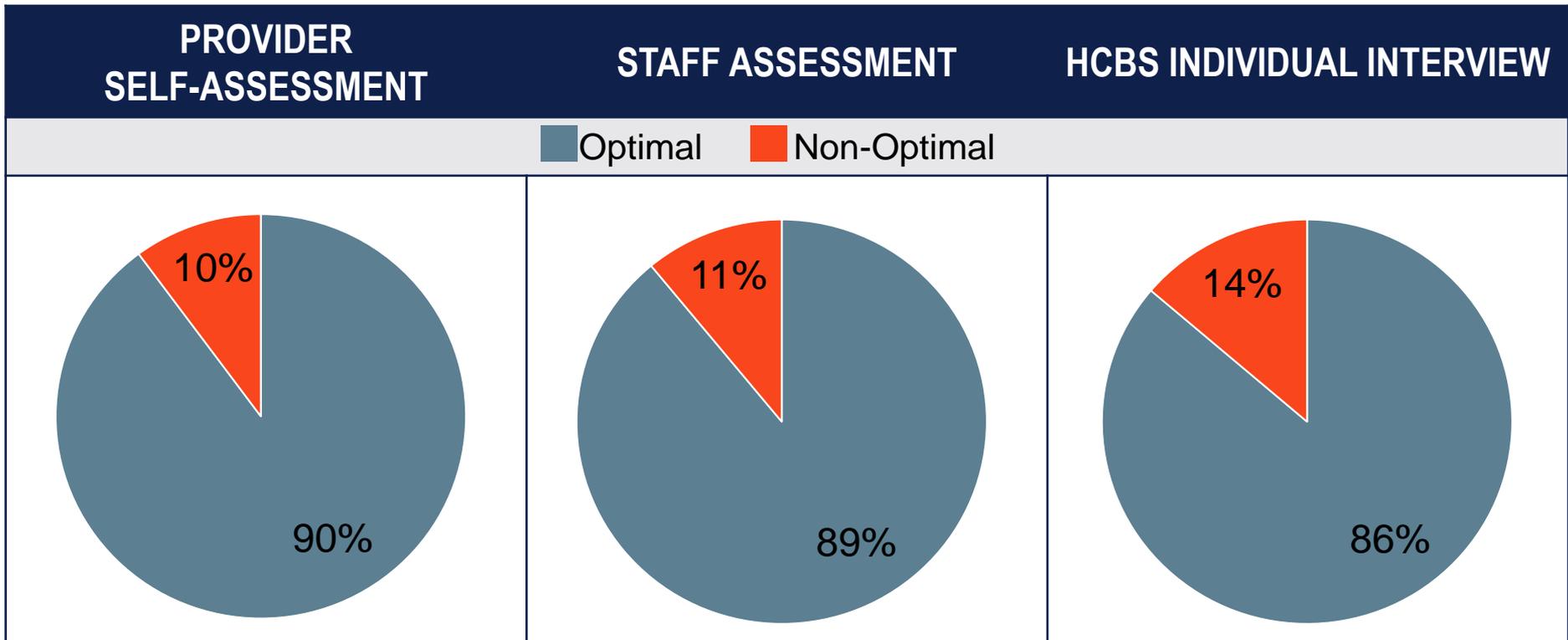
- Assessed settings in South Dakota based on 7 Key Concept areas:
  - Facility Location
  - Dignity and Respect
  - Privacy
  - Physical Accessibility
  - Autonomy
  - Community Integration
  - Living Arrangements
- 132 Assisted Livings submitted a Provider Self-Assessment.
- DSS performed site assessments at 131 ALs (99%).
- DSS interviewed 159 individuals receiving AL services (18%).



# OVERALL FINDINGS

## OVERALL ASSESSMENT RESULTS:

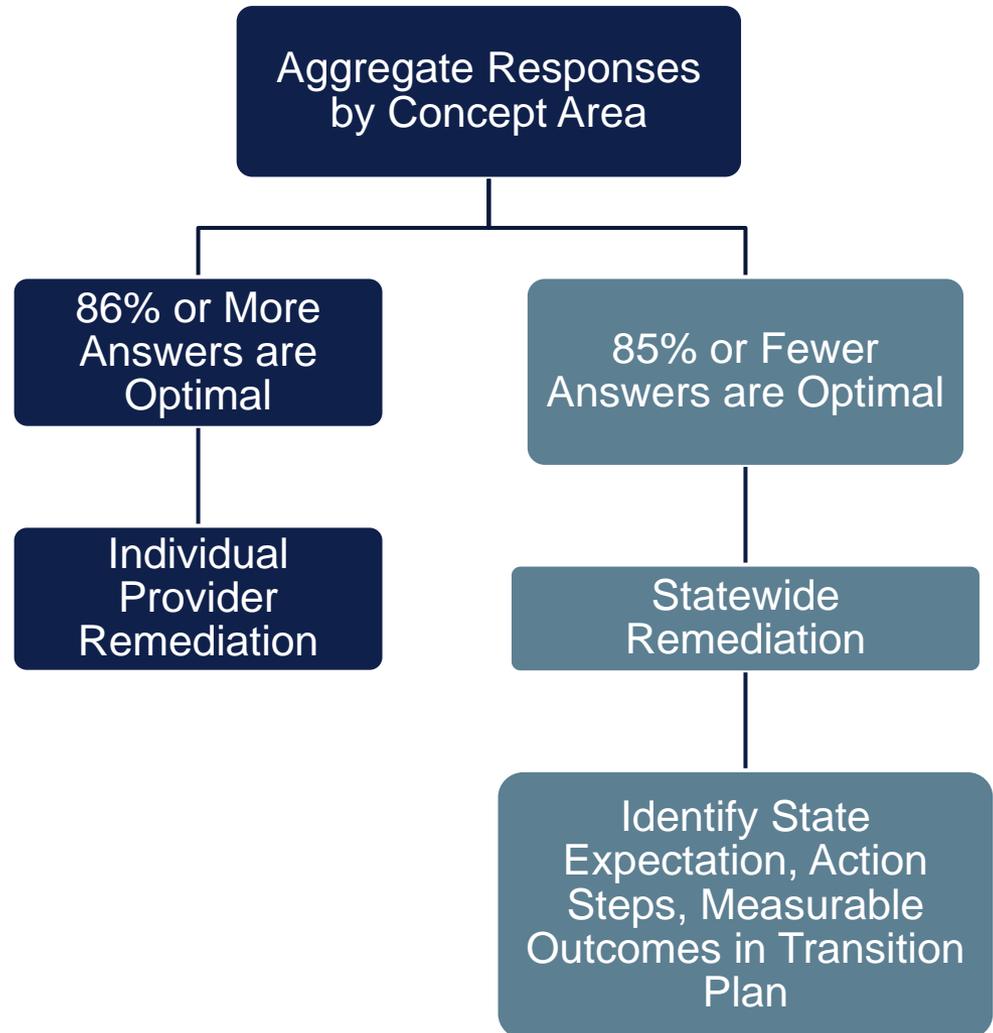
- Optimal: Setting policy/practice is in compliance with HCBS Final Rule.
- Non-Optimal: Setting policy/practice requires action steps to reach compliance.



**Great news: South Dakota ALs are currently compliant with majority of final rule!**

# SETTINGS ANALYSIS OVERVIEW

- SD used CMS's 86% Compliance Threshold to determine where to use statewide remediation.
  - DSS will address remediation on an individual setting basis when a concept area has 86% or more compliance.
  - Statewide remediation and action items will be used when a concept area is less than 86% as shown by either the provider, staff, or individual results.



# CONCEPT AREAS ABOVE 86% COMPLIANCE

## HCBS (ASA) Waiver

### DIGNITY & RESPECT

PROVIDERS  
99%

STAFF  
99%

INDIVIDUALS  
94%

No Statewide Action Items; Will work with individual ALs to ensure compliance

### LOCATION

PROVIDERS  
88%

STAFF  
93%

INDIVIDUALS  
97%

No Statewide Action Items; Will work with individual ALs to ensure compliance

### PHYSICAL ACCESSIBILITY

PROVIDERS  
88%

STAFF  
96%

INDIVIDUALS

No Statewide Action Items; Will work with individual ALs to ensure compliance

### AUTONOMY

PROVIDERS  
97%

STAFF  
95%

INDIVIDUALS  
99%

No Statewide Action Items; Will work with individual ALs to ensure compliance

# INDIVIDUAL REMEDIATION

Education about State and Federal Expectations in Concept Area

Provider Re-Assess Concept Area

State Evaluation

Individual Remediation to Address Remaining Issues

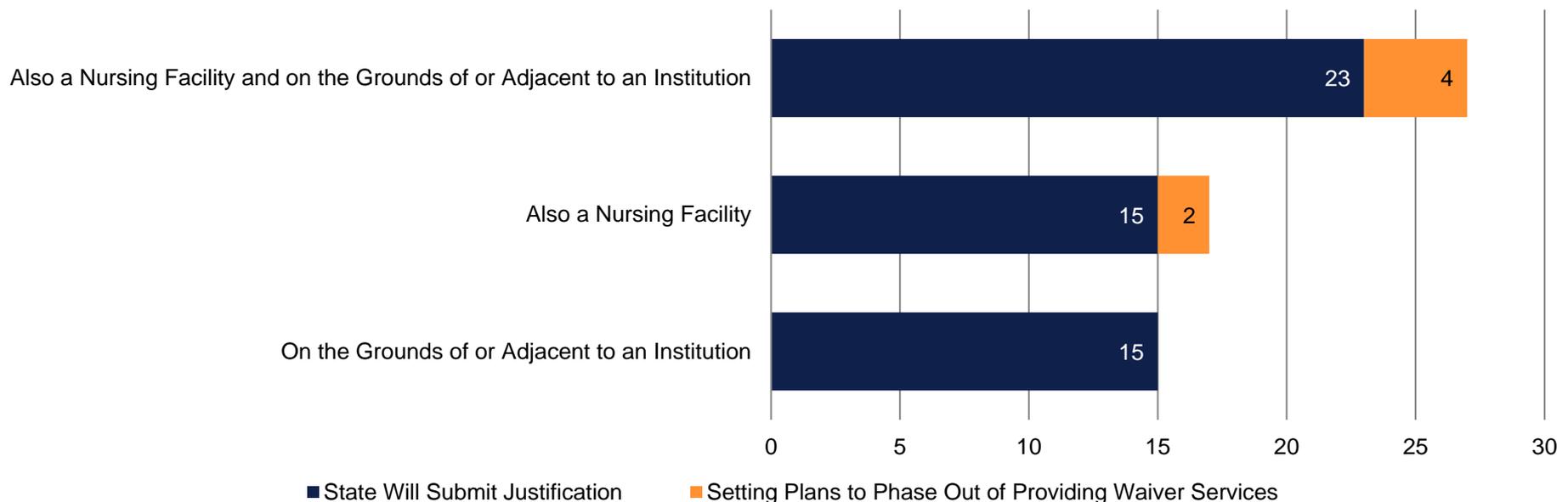
Plan for Continuous Compliance

- **Example:** Physical Accessibility
  - Several providers indicated that individuals do not have access to appliances in the self-assessment.
- **DSS Education:** Expectation that individuals have access to basic appliances and laundry facility.
- **Providers Re-Assess:**
  - Do individuals in my setting have access to refrigerators/microwaves/etc.?
- **DSS Reviews Compliance during On-Site Reviews**
- **DSS & Provider develop a plan for recipients to access basic appliances by March 2019**
- **Provider Attests to Compliance and DSS Continues to Monitor through On-Site Reviews**

# SETTINGS SUBJECT TO HEIGHTENED-SCRUTINY REVIEW

- CMS identified types of settings that are subject to heightened-scrutiny review because they are presumed to isolate individuals from the broader community or that have the qualities of an institution.
- DSS performed an on-site review of each setting subject to heightened-scrutiny review and initial results indicate settings are justifiably HCBS.

## REASONS FOR PRESUMED NON-COMPLIANCE



# SETTINGS SUBJECT TO HEIGHTENED-SCRUTINY REVIEW

- DSS will present initial findings in the Transition Plan:
  - Most settings serve rural/frontier communities.
  - Some settings are the only available Assisted Living option in their community.
  - Assisted Living Residents receive separate services and function independently of the Nursing Facilities.
- CMS requires a formal heightened scrutiny waiver from the Secretary of Health and Human Services for these settings. DSS anticipates the heightened scrutiny waiver process to occur during the 2016 HCBS (ASA) Waiver Renewal.
  - CMS is looking for evidence of state site-visits and public input to justify that settings are home and community based.
- DSS will perform additional evaluation and review of sites prior to 2016.

**What is the best way to solicit public comments about Assisted Living settings in your community?**

# CONCEPT AREAS BELOW 86% COMPLIANCE

## HCBS (ASA) Waiver

### PRIVACY

PROVIDERS  
88%

STAFF  
72%

INDIVIDUALS  
72%

DSS will address with Statewide Action Items

### LIVING ARRANGEMENTS

PROVIDERS  
79%

STAFF  
72%

INDIVIDUALS  
81%

DSS will address with Statewide Action Items

### COMMUNITY INTEGRATION

PROVIDERS  
85%

STAFF  
95%

INDIVIDUALS  
95%

DSS will address with Statewide Action Items

# PRIVACY

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>BEDROOM DOOR LOCKS</b>			
<b>In provider owned or leased properties, individuals should be able to lock the door to their bedroom from non-staff if capable.</b>	Educate providers of state and federal expectations.	Educational Webinar, Informational Bulletin	DSS
	Document health and welfare concerns in person-centered care plan.	100% compliance in quarterly plan reviews	DSS and Assisted Living Providers
	All provider-owned or leased settings have implemented locks for capable individuals.	100% compliance in annual site reviews	DSS and Assisted Living Providers

DSS will educate providers by January 31, 2016. 26 months for total implementation after education. Providers must offer bedroom door locks to all new AL residents starting on or before July 1, 2016. Lock installation may be staggered but must be completed by March 2018.

**Can lock installation be completed sooner than March 2018?**

# PRIVACY

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>SHARED BEDROOMS</b>			
<b>Individuals will be offered a choice between setting options with private and shared bedrooms.</b>	Document setting choice between private and shared bedrooms in person-centered care plan.	100% compliance in quarterly plan reviews	DSS
<b>ROOMMATE CHOICE</b>			
<b>When an individual shares a bedroom, they will be able to choose their roommate.</b>	Educate providers of state and federal expectations.	Educational Webinar, Informational Bulletin	DSS
	Providers implement a policy that allows individuals choice of roommates as available.	100% compliance in annual site reviews	Assisted Living Providers

DSS will document individual choice between providers with shared bedrooms and providers with private bedrooms when entering an AL in the care plan starting on July 1, 2015. DSS will educate providers by June 30, 2015. 6 months for implementation after education. Providers must implement a roommate choice policy by December 31, 2015.

**Can you implement a roommate choice policy earlier than Dec. 31, 2015?**

# LIVING ARRANGEMENTS

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>ACCESS TO FOOD</b>			
<b>Individuals are able to choose what time and where to eat. Individuals are able to make or request an alternative to any planned meals within their resources.</b>	Educate providers of state and federal expectations.	Educational Webinar, Informational Bulletin	DSS
	The setting offers reasonable alternative to planned meals.	100% compliance in annual site reviews	Assisted Living Providers
	Individuals are able to make an alternative meal within their resources.	100% compliance in annual site reviews	Assisted Living Providers
	All individuals can elect to eat at an alternative time.	100% compliance in annual site reviews	Assisted Living Providers
	All individuals can elect to eat in their room.	100% compliance in annual site reviews	Assisted Living Providers

DSS will educate providers by December 31, 2015. 38 months for implementation following education. Providers must begin facilitating supports in this area on or before July 1, 2016 with every setting fully compliant by March 2019.

**Can supports for access to food be implemented earlier than March 2019?**

# LIVING ARRANGEMENTS

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>IMMEDIATE ACCESS TO THE SETTING</b>			
<b>Individuals have immediate access to the setting 24/7.</b>	Educate providers of state and federal expectations.	Educational Webinar, Informational Bulletin	DSS
	All settings are immediately accessible to individuals 24/7 by key or other means such as setting staff, key pad/fob, etc.	100% compliance in annual site reviews	Assisted Living Providers

DSS will educate providers by February 2016. 25 months for full implementation following education. Providers must provide individuals immediate access to the setting beginning on or before July 1, 2016 with every setting compliant by March 2018.

**Can you facilitate immediate access to the setting for all individuals sooner than March 2018?**

# COMMUNITY INTEGRATION

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>ACCESS TO COMMUNITY ACTIVITES AND EVENTS</b>			
<b>Providers facilitate access to community activities and events.</b>	Educate providers of state and federal expectations.	Statewide education; Webinars, FAQ, Annual Newsletter	DSS
	Collaborate with stakeholders and providers to perform further analysis.	Develop additional actions as needed.	DSS, Assisted Living Providers, Stakeholders
	Increase provider knowledge of use of natural supports.	Statewide education; Webinars, FAQ, Annual Newsletter	DSS

DSS will educate providers by July 31, 2016. DSS will collaborate with stakeholders and providers to perform further analysis by June 30, 2017.

DSS will provide additional education about using natural supports.

**What is the best way to collect information regarding your current practices?**

# COMMUNITY INTEGRATION

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>WORK/VOLUNTEER IN AN INTEGRATED SETTING</b>			
<b>Providers arrange supports for an individual to work or volunteer in an integrated setting when an individual is interested in working or volunteering.</b>	Educate providers of state and federal expectations.	Statewide education; Webinars, FAQ, Annual Newsletter	DSS
	Change HCBS (ASA) waiver eligibility requirements for earned income	2016 Waiver Renewal	DSS

DSS will educate providers by March 31, 2016. DSS will change the HCBS waiver requirements for earned income in the October 2016 waiver renewal.

**Can you support residents who wish to work or volunteer in the community beginning in October 2016?**

# CONTINUOUS COMPLIANCE

- The requirements of the HCBS Final Rule will continue to apply to all waiver settings after the end of the Transition Plan Period.
  - All new settings will have to be compliant with the HCBS Final Rule to enroll as a waiver provider.

EXPECTATION	COMPLIANCE ACTION STEP	MEASURABLE OUTCOMES	AGENCY
<b>CONTINUOUS COMPLIANCE</b>			
<b>All settings are continuously compliant with the requirements of the HCBS Final Rule.</b>	Provider attest to compliance with HCBS requirements through a supplemental agreement.	Signed Supplemental Agreement with DSS	DSS and Assisted Living Providers
	Provider practices in the setting agree with their signed Supplemental Agreement.	100% compliance in annual site reviews	DSS and Assisted Living Providers

DSS will implement a supplemental agreement for waiver providers starting in SFY 2016. DSS will evaluate compliance with supplemental agreement in annual site reviews following implementation.

# TRANSITION PLAN OVERVIEW

## ■ STATEMENT OF PURPOSE

## ■ MEDICAID WAIVERS IN SOUTH DAKOTA

- Contains a description of South Dakota as a frontier state. Describes the rural nature of South Dakota and the challenges associated with service coordination and delivery in rural communities. Also contains a description of each of South Dakota's four Medicaid waivers and the HCBS services and supports available to individuals eligible for each waiver.

## ■ SETTINGS ANALYSIS

- Overviews South Dakota's analysis process. South Dakota analyzed state policy contained in the Medicaid 1915(c) waivers and Administrative Rule of South Dakota. An assessment of settings was also completed using seven key concept areas and data gathered from providers, state staff, and individuals receiving HCBS services.

## ■ HCBS (ASA) WAIVER ASSESSMENT RESULTS AND ACTION ITEMS

- Contains the results from providers, state staff, and individual interviews and action items for the State and providers. Also contains analysis of settings subject to heightened scrutiny review.

# TRANSITION PLAN OVERVIEW

## ■ CHOICES WAIVER ASSESSMENT RESULTS AND ACTION ITEMS

- Contains the results from providers, state staff, and individual interviews and action items for the State and providers.

## ■ IMPLEMENTATION TIMELINE

- Aggregates action items for both the HCBS (ASA) waiver and CHOICES waiver into a master timeline for South Dakota.

## ■ PUBLIC INPUT AND PUBLIC NOTICE

- Details opportunities for public input throughout the assessment process. This section will also contain a description of the Formal 30-Day Public Notice period required by the Final Rule and comments made during the Formal Public Notice period.

## ■ PLAN FOR CONTINUOUS COMPLIANCE

- Details South Dakota's plan to ensure compliance with the Final Rule after the end of the Transition Period.

# NEXT STEPS

- **HCBS (ASA) Waiver Provider/Stakeholder Input Webinars**
  - January 5, 6, & 12, 2015
  - Opportunity for providers and stakeholders to provide comment on the feasibility of our proposed timeframes prior to the Formal Public Notice Period.
- **Informal Comments on proposed action steps and timeframes made to DSS by January 23, 2015.**
- **DSS will review comments and revise Transition Plan as needed.**
- **Formal 30-Day Public Notice Period**
  - Tentative Dates: January 30 – March 1, 2015
  - Post Transition Plan on the Web: <http://dss.sd.gov/sdmedx/hcbs/>
  - Publish Notice in *LRC Register*
  - Distribute via E-Mail to Providers, Stakeholders, Individuals, Guardians, etc.
  - Host Town Hall Webinars

# FEEDBACK SUMMARY

## ■ **Settings Subject to Heightened Scrutiny Review**

- What is the best way to solicit public comments about Assisted Living settings in your community?

## ■ **Privacy**

- Can lock installation be completed sooner than March 2018?
- Can you implement a roommate choice policy earlier than Dec. 31, 2015?

## ■ **Living Arrangements**

- Can supports for access to food be implemented earlier than March 2019?
- Can you facilitate immediate access to the setting for all individuals sooner than March 2018?

## ■ **Community Integration**

- What is the best way to collect information about your current practices regarding access to community activities and events?
- Can you support residents who wish to work /volunteer in the community beginning in October 2016?

# HOW DO I MAKE A COMMENT?

- Submit a comment through your association. Several South Dakota associations have volunteered to aggregate and submit comments from their membership.

SDAHO

- South Dakota Association of Healthcare Organizations
- **EMAIL:** [wendy.mead@sdaho.org](mailto:wendy.mead@sdaho.org)

SDHCA

- South Dakota Health Care Association
- **EMAIL:** [sdhca@sdhca.org](mailto:sdhca@sdhca.org)
- Please include *HCBS Webinar Feedback* in the subject line.

ALASD

- Assisted Living Association of South Dakota
- **EMAIL:** [lethia@prairiehomesyankton.com](mailto:lethia@prairiehomesyankton.com)

**Please submit comments by January 23, 2015**

# HOW DO I MAKE A COMMENT?

- Submit a comment directly to the Department of Social Services. We prefer comments via email, but we are happy to correspond with you by mail or over the phone.

- **EMAIL:**

[HCBS@state.sd.us](mailto:HCBS@state.sd.us)

- **MAIL:**

South Dakota Medicaid  
ATTN: HCBS Transition Plan  
700 Governors Drive  
Pierre, SD 57501

- **PHONE:**

- **HCBS (ASA) Waiver:** Misty Black Bear, 605-773-3656
- **South Dakota Medicaid:** Ann Schwartz or Sarah Aker, 605-773-3495

**Please submit comments by January 23, 2015**

# WHERE CAN I FIND MORE INFORMATION?

## ■ SOUTH DAKOTA HCBS WEBSITE:

- <http://dss.sd.gov/sdmedx/hcbs/>

## ■ CMS HCBS WEBSITE:

- <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

## ■ FINAL RULE:

- <https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>

# QUESTIONS?

We appreciate your time today and look forward to working with you to ensure individuals served by South Dakota's HCBS programs continue to receive quality supports and services in the community.