

# South Dakota Home and Community Based Services Statewide 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

# HCBS FINAL RULE EFFECT ON NATIVE AMERICANS IN SOUTH DAKOTA

## ■ EFFECT ON SETTINGS:

- There are no Indian Health Service or Tribal-owned HCBS settings currently enrolled as a residential provider for a South Dakota Medicaid waiver.
- Any IHS or Tribal-owned facilities that wish to enroll as a Medicaid waiver provider in the future will need to be compliant with the HCBS Final Rule in order to enroll.

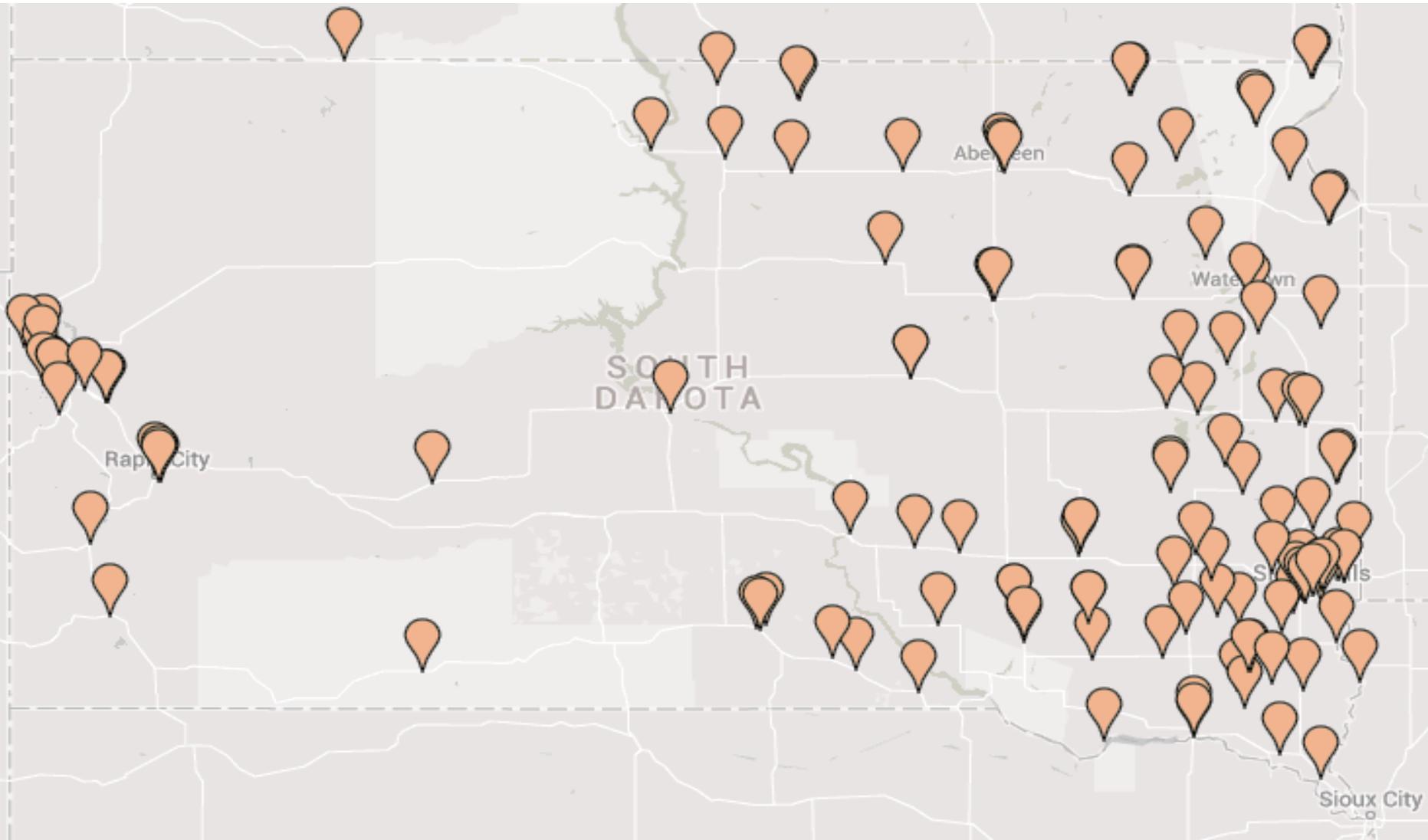
## ■ EFFECT ON INDIVIDUALS:

- 498 Native Americans currently receive HCBS through South Dakota's four Medicaid waivers.
- Rule has a direct effect on individuals residing in Assisted Livings and Group Homes and Supervised Apartments.

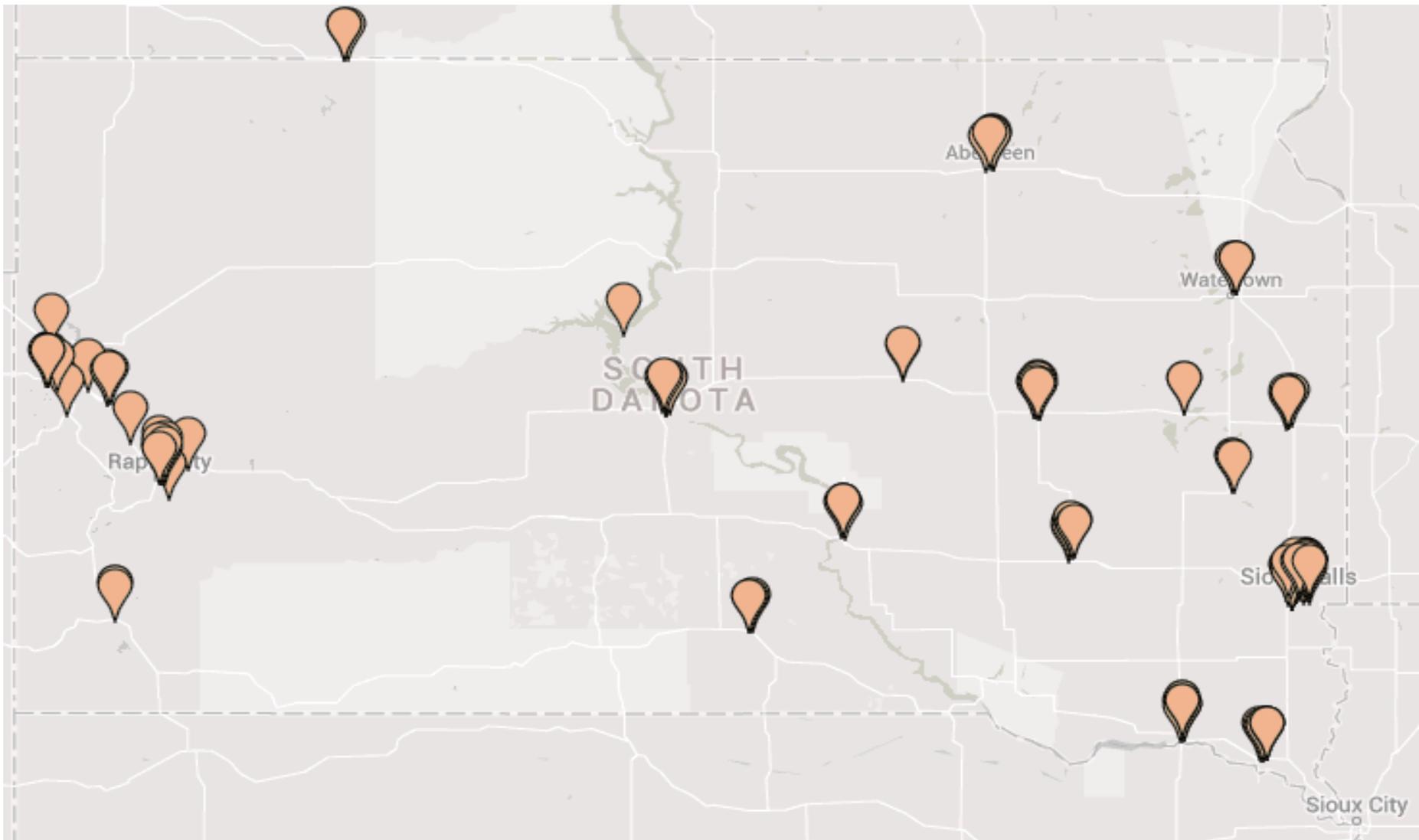
# NATIVE AMERICANS RECEIVING HCBS SERVICES



# MAP OF ASSISTED LIVINGS IN SOUTH DAKOTA



# MAP OF GROUP HOME AND SUPERVISED APARTMENT SETTINGS IN SOUTH DAKOTA

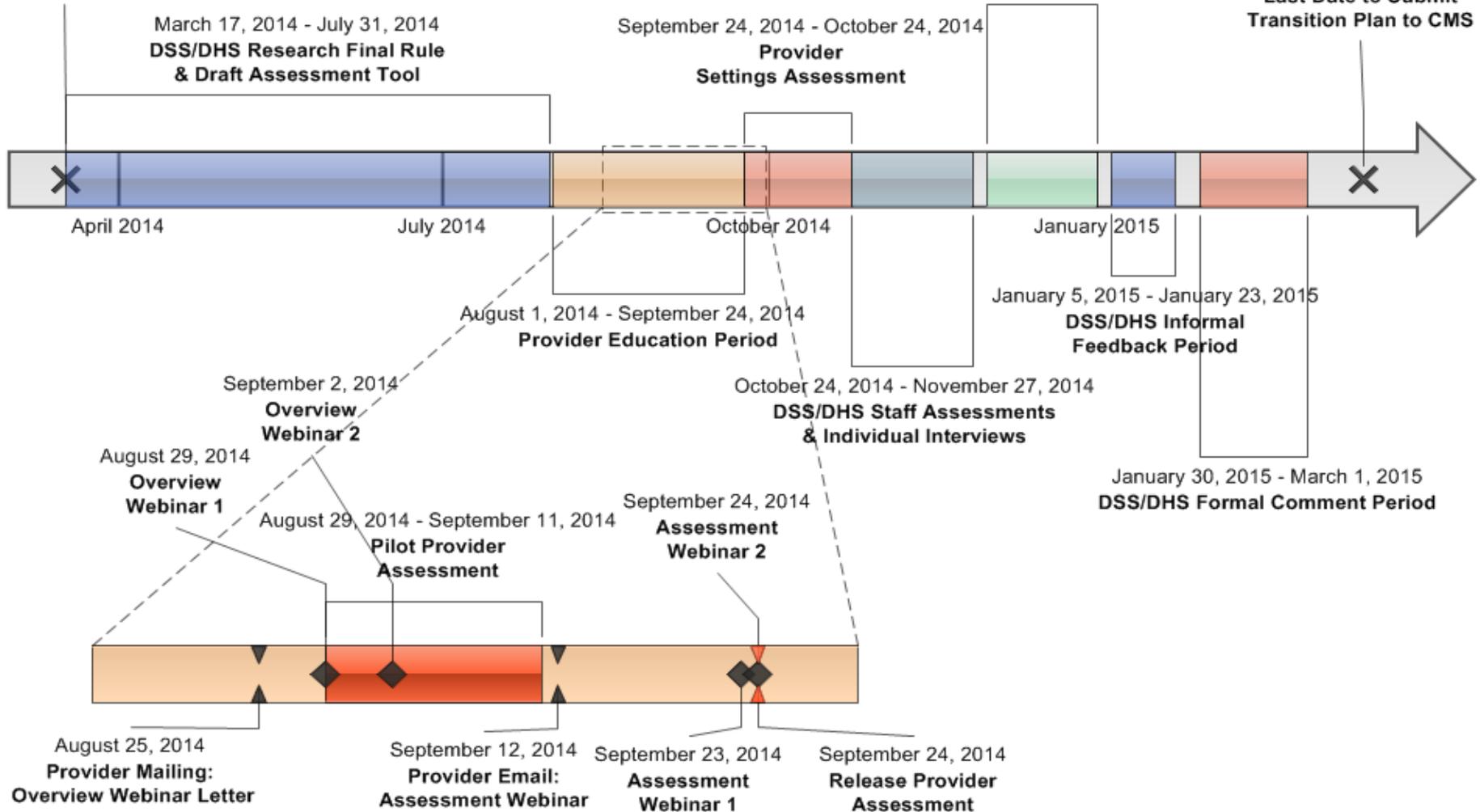


# SOUTH DAKOTA TIMELINE

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



# HCBS FINAL RULE & SOUTH DAKOTA ACTIONS

- Assessed settings in South Dakota based on 7 Key Concept areas:
  - Facility Location
  - Dignity and Respect
  - Privacy
  - Physical Accessibility
  - Autonomy
  - Community Integration
  - Living Arrangements



# OVERALL FINDINGS

## ■ OVERALL ASSESSMENT RESULTS:

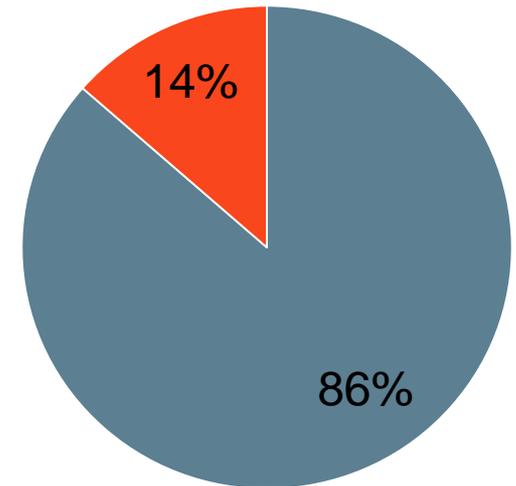
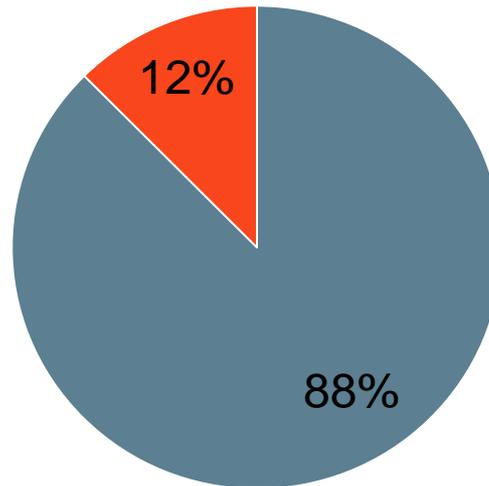
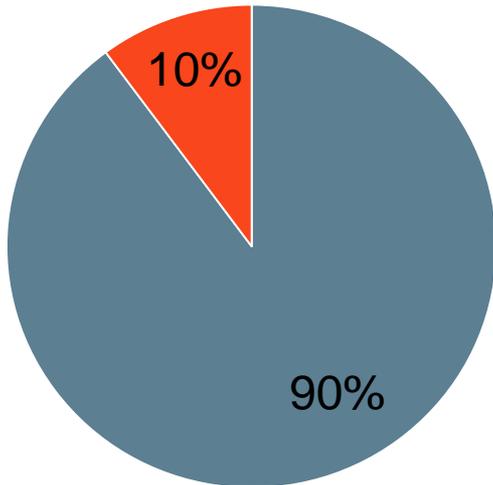
- Optimal: Setting policy/practice is in compliance with HCBS Final Rule.
- Non-Optimal: Setting policy/practice needs remediation.

**PROVIDER  
SELF-ASSESSMENT**

**STAFF ASSESSMENT**

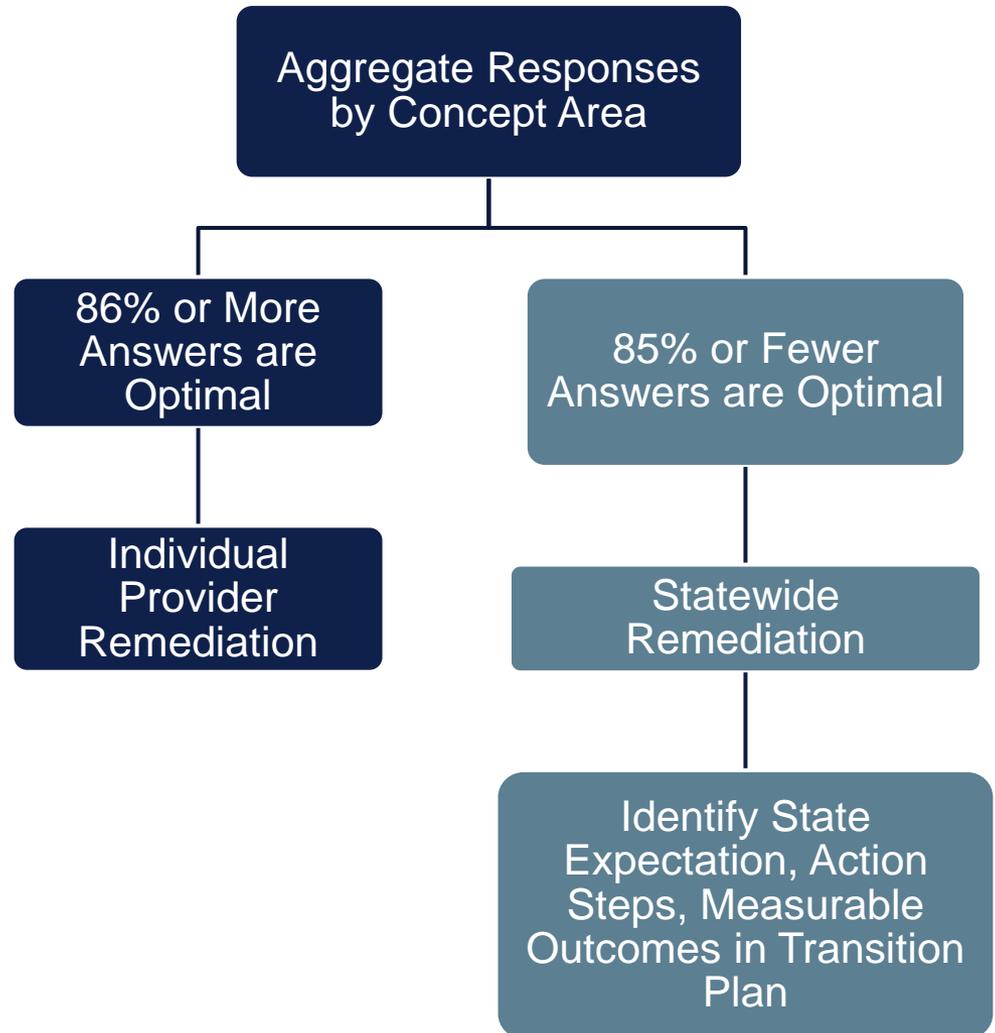
**HCBS INDIVIDUAL INTERVIEW**

■ Optimal ■ Non-Optimal



# 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

## CHOICES Waiver

### DIGNITY & RESPECT

PROVIDERS	STAFF	INDIVIDUALS
99%	99%	94%

No Statewide Action Items

PROVIDERS	STAFF	INDIVIDUALS
98%	97%	94%

No Statewide Action Items

### LOCATION

PROVIDERS	STAFF	INDIVIDUALS
88%	93%	97%

No Statewide Action Items

PROVIDERS	STAFF	INDIVIDUALS
99%	93%	94%

No Statewide Action Items

### PHYSICAL ACCESSIBILITY

PROVIDERS	STAFF	INDIVIDUALS
88%	96%	

No Statewide Action Items

PROVIDERS	STAFF	INDIVIDUALS
93%	94%	

No Statewide Action Items

### AUTONOMY

PROVIDERS	STAFF	INDIVIDUALS
97%	95%	99%

No Statewide Action Items

PROVIDERS	STAFF	INDIVIDUALS
87%	84%	89%

No Statewide Action Items

# CONCEPT AREAS BELOW 86% COMPLIANCE

## HCBS (ASA) Waiver

## CHOICES Waiver

### PRIVACY

PROVIDERS	STAFF	INDIVIDUALS
87%	72%	72%

DSS will address with Statewide Action Items

PROVIDERS	STAFF	INDIVIDUALS
95%	92%	83%

No Statewide Action Items

### LIVING ARRANGEMENTS

PROVIDERS	STAFF	INDIVIDUALS
79%	72%	81%

DSS will address with Statewide Action Items

PROVIDERS	STAFF	INDIVIDUALS
89%	60%	87%

DHS will address with Statewide Action Items

### COMMUNITY INTEGRATION

PROVIDERS	STAFF	INDIVIDUALS
85%	95%	95%

DSS will address with Statewide Action Items

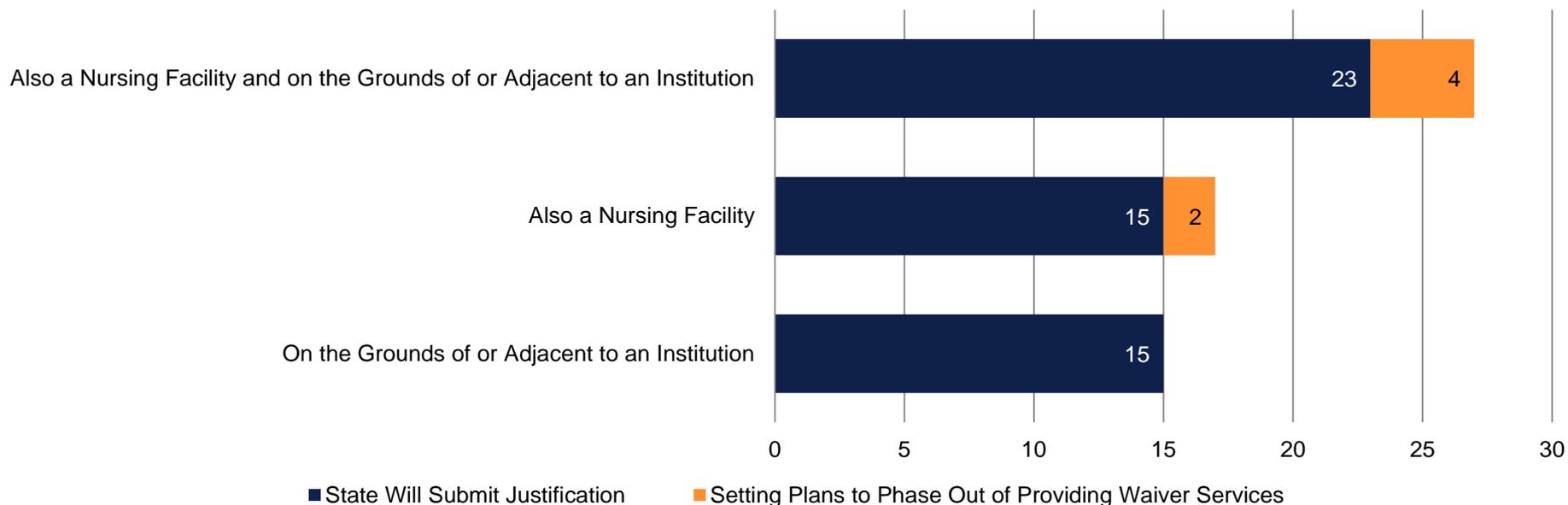
PROVIDERS	STAFF	INDIVIDUALS
72%	80%	78%

DHS will address with Statewide Action Items

# 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.

# PRIVACY

## HCBS (ASA) Waiver

## CHOICES Waiver

PROVIDERS	STAFF	INDIVIDUALS
88%	72%	72%

PROVIDERS	STAFF	INDIVIDUALS
95%	92%	83%

### BEDROOM DOOR LOCKS

#### Expectation:

- In provider owned or leased properties, individuals should be able to lock the door to their bedroom from non-staff if capable.

#### Action Steps:

- Educate Providers About Expectation
- Document Health & Welfare Concerns in Care Plan
- Phased Lock Installation

No Statewide Action Steps

# PRIVACY

## HCBS (ASA) Waiver

## CHOICES Waiver

PROVIDERS	STAFF	INDIVIDUALS
88%	72%	72%

PROVIDERS	STAFF	INDIVIDUALS
95%	92%	83%

### SHARED BEDROOMS

#### Expectation:

- Individuals will be offered a choice between setting options with private and shared bedrooms.
- When an individual shares a bedroom, they will be able to choose their roommate.

#### Action Steps:

- Document Setting Choice and Roommate Choice in Care Plan
- Educate Providers About Expectation

No Statewide Action Steps

# LIVING ARRANGEMENTS

## HCBS (ASA) Waiver

## CHOICES Waiver

PROVIDERS	STAFF	INDIVIDUALS
79%	72%	81%

PROVIDERS	STAFF	INDIVIDUALS
88%	72%	72%

### ACCESS TO FOOD

### ACCESS TO FOOD

#### Expectation:

- 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.

#### Expectation:

- Individuals choose when, where and what to eat

#### Action Steps:

- Educate Providers About Expectation
- Setting Offers Alternatives to Planned Meals
- Individuals are able to make an alternative meal within their resources
- Individuals may eat at an alternative time
- Individuals may eat in their room

#### Action Steps:

- Train Providers About Expectation
- Monitor Individual Access to Food through CQL.
- Adequate documentation regarding limits to access to food

# LIVING ARRANGEMENTS

## HCBS (ASA) Waiver

PROVIDERS 79%	STAFF 72%	INDIVIDUALS 81%
<b>IMMEDIATE ACCESS TO SETTING</b>		
<b>Expectation:</b> <ul style="list-style-type: none"><li>Individuals have immediate access to the setting 24/7.</li></ul>		
<b>Action Steps:</b> <ul style="list-style-type: none"><li>Educate Providers About Expectation</li><li>All settings are immediately accessible to individuals 24/7 by key or other means such as setting staff, key pad/fob, etc.</li></ul>		

## CHOICES Waiver

PROVIDERS 88%	STAFF 72%	INDIVIDUALS 72%
<b>KEY TO THE SETTING</b>		
<b>Expectation:</b> <ul style="list-style-type: none"><li>Individuals have a key to the setting.</li></ul>		
<b>Action Steps:</b> <ul style="list-style-type: none"><li>Train Providers About Expectation</li><li>Monitor through qualified provider reviews</li><li>Update SMART System to include monitoring elements pertaining to the expectation.</li></ul>		

# LIVING ARRANGEMENTS

## HCBS (ASA) Waiver

<b>PROVIDERS</b>	<b>STAFF</b>	<b>INDIVIDUALS</b>
79%	72%	81%

## CHOICES Waiver

<b>PROVIDERS</b>	<b>STAFF</b>	<b>INDIVIDUALS</b>
88%	72%	72%

### TENANT RIGHTS

#### Expectation:

- Individuals have the same responsibilities and protections from eviction available to other tenants under South Dakota's tenant/landlord laws.

#### Action Steps:

- Promulgate ARSD
- Train Providers About Expectation
- Monitor through qualified provider reviews
- Update SMART System to include monitoring elements pertaining to the expectation

# LIVING ARRANGEMENTS

## HCBS (ASA) Waiver

<b>PROVIDERS</b>	<b>STAFF</b>	<b>INDIVIDUALS</b>
79%	72%	81%

## CHOICES Waiver

<b>PROVIDERS</b>	<b>STAFF</b>	<b>INDIVIDUALS</b>
88%	72%	72%

### GREIVANCE INFORMATION & ANONYMOUS COMPLAINTS

#### Expectation:

- Grievance information is posted in obvious locations. Individuals are able to make anonymous complaints.

#### Action Steps:

- Issue Guidance Memo
- Monitor through qualified provider reviews
- Update SMART System to include monitoring elements pertaining to the expectation

# COMMUNITY INTEGRATION

## HCBS (ASA) Waiver

PROVIDERS 85%	STAFF 95%	INDIVIDUALS 95%
<b>ACCESS TO COMMUNITY ACTIVITIES AND EVENTS</b>		
<b>Expectation:</b> <ul style="list-style-type: none"><li>Providers facilitate access to community activities and events.</li></ul>		
<b>Action Steps:</b> <ul style="list-style-type: none"><li>Educate providers of state and federal expectations.</li><li>Collaborate with stakeholder to further assess findings.</li><li>Increase provider knowledge of use of natural supports.</li></ul>		

## CHOICES Waiver

PROVIDERS 88%	STAFF 80%	INDIVIDUALS 78%
<b>ABILITY TO COME AND GO AT ANY TIME</b>		
<b>Expectation:</b> <ul style="list-style-type: none"><li>Individuals can come and go at any time.</li></ul>		
<b>Action Steps:</b> <ul style="list-style-type: none"><li>Train and educate providers regarding community access.</li><li>Review documented limits through the SMART internal review process and educate staff regarding due process and rights restrictions in this area.</li><li>Monitor access to the community via CQL.</li></ul>		

# COMMUNITY INTEGRATION

## HCBS (ASA) Waiver

PROVIDERS	STAFF	INDIVIDUALS
85%	95%	95%
<b>WORK/VOLUNTEER IN AN INTEGRATED SETTING</b>		
<p><b>Expectation:</b></p> <ul style="list-style-type: none"> <li>Individuals are employed or volunteer in an integrated setting when an individual is interested in working or volunteering</li> </ul>		
<p><b>Action Steps:</b></p> <ul style="list-style-type: none"> <li>Educate providers of state and federal expectations</li> <li>Change ASA waiver eligibility requirements for earned income</li> </ul>		

## CHOICES Waiver

PROVIDERS	STAFF	INDIVIDUALS
88%	80%	78%
<b>WORK/VOLUNTEER IN AN INTEGRATED SETTING</b>		
<p><b>Expectation:</b></p> <ul style="list-style-type: none"> <li>Individuals work in integrated community settings</li> </ul>		
<p><b>Action Steps:</b></p> <ul style="list-style-type: none"> <li>Update employment service definitions in ARSD and waiver to promote competitive employment through provider payments</li> <li>Host Individual &amp; Qualified Provider Training</li> <li>Expand supported employment services for individuals supported in segregated settings and individuals age 24 or younger supported in segregated settings</li> <li>Monitor via CQL and NCI Results</li> </ul>		

# COMMUNITY INTEGRATION

## HCBS (ASA) Waiver

PROVIDERS

85%

STAFF

95%

INDIVIDUALS

95%

## CHOICES Waiver

PROVIDERS

88%

STAFF

80%

INDIVIDUALS

78%

### ACCESS TO COMMUNITY ACTIVITIES NOT COORDINATED BY THE FACILITY

#### Expectation:

- Individuals have access to information and community activities not coordinated by the provider

#### Action Steps:

- Educate Providers
- Review NCI Interview results to ascertain how often individuals access community activities
- Monitor community access via CQL
- Review documented limits through SMART & educate staff regarding due process and rights restrictions in this area

# 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 presumed to be non-HCBS.

# 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**
- **CHOICES Waiver Provider/Stakeholder Input**
- **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

# HOW DO I MAKE A COMMENT?

- We encourage you to outreach our staff to ask questions about the transition plan and make comments. Please reach us by:
  - **Email:** [HCBS@state.sd.us](mailto:HCBS@state.sd.us)
  - **Mail:** South Dakota Medicaid  
ATTN: HCBS Transition Plan  
700 Governors Drive  
Pierre, SD 57501

**CHOICES WAIVER**  
Department of Human  
Services  
Colin Hutchison  
  
(605)773-3438

**HCBS (ASA)  
WAIVER**  
Department of Social  
Services  
Misty Black Bear  
  
(605)773-3656

**SD Medicaid**  
Department of Social  
Services  
Ann Schwartz  
Sarah Aker  
  
(605)773-3495

# 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.