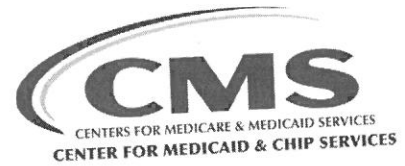


DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



## Disabled & Elderly Health Programs Group

Nancy Thaler, Executive Director  
NASDDDS  
301 N. Fairfax St., Suite 101  
Alexandria, VA 22314

Dear Nancy,

I am writing in response to the letter that you emailed on January 21, 2015. You are requesting written clarification on Question #7, "HCB Setting- Non-Residential" found in the Frequently Asked Questions (FAQs) published in December 2014. In addition, you have posed a question regarding state responsibility and authority in the area of establishing standards for HCB services.

Question/Issue: NASDDDS requests that CMS provide written clarification that when a state determines that a program or facility does not meet the rule, that decision rests with the state and that only when a state is requesting heightened scrutiny to include a facility in the waiver as meeting the rule is CMS accepting information from "other parties."

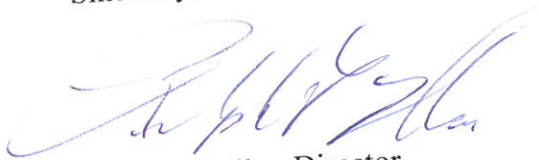
CMS Response: The intent of the language in the rule with regard to statewide transition plans and heightened scrutiny is to notify all parties that when a state submits evidence for heightened scrutiny, CMS may review information from other parties when evaluating the state's request for and evidence submitted as part of heightened scrutiny.

Question/Issue: NASDDDS also requests that CMS provide written clarification regarding the states' responsibility to establish standards for HCB services and endorse the use of objective criteria as part of the standards.

CMS Response: It is the responsibility of the state to establish standards that ensure that HCB services and settings comport with the requirements of the regulation. CMS supports a state's development and inclusion of objective criteria as part of their standards for the evaluation of HCB services and settings. As clarified in our "HCBS FINAL REGULATIONS 42 CFR Part 441: QUESTIONS AND ANSWERS REGARDING HOME AND COMMUNITY-BASED SETTINGS" released December 15, 2014, the federal HCBS regulation establishes the minimum requirements for HCB settings, and states may establish standards that are higher than the federal requirement.

Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ralph F. Lollar".

Ralph F. Lollar, Director

Division of Long Term Services and Supports

cc.: Alissa Deboy  
Suzanne Bosstick  
Melissa Harris  
Jodie Anthony