1. **Page 1 - ¶ 5** – Persons who are unable to plan without assistance or representation due to issues of cognitive disability due to brain injury have not been protected through waiver benefits for the provision of Supports Brokers.

   **Response:** OLTL has considered adding Supports Brokerage as a waiver service to support those individuals who self-direct their services. This change is still under consideration. As part of OLTL's assessment and discovery process, OLTL will be identifying those areas in which Service Coordinators need additional training to facilitate the person-centered planning process and support individuals with all disabilities, including brain injury. As part of our initial assessment, OLTL identified that conducting the person-centered planning process and providing information in plain language in a manner that is accessible to individuals with disabilities as a weakness. OLTL's transition plan includes a remediation strategy that addresses training for Service Coordinators (please see page 3 of the transition plan).

2. **Page 2 - ¶ 2** – 42 CFR 441.301 (b) (6) (c) (1) - To be on an equal footing with the Supports Coordinator in creating the Service Plan, the waiver must fund the option of a Supports Broker to work with and represent the waiver participant. Where executive function skills and memory are lacking, and family members cannot be consistent advocates, the Supports Coordinator will otherwise be handling planning by default.

   **Response:** OLTL has considered adding Supports Brokerage as a waiver service to support those individuals who self-direct their services. This change is still under consideration. As part of OLTL's assessment and discovery process, OLTL will be identifying those areas in which Service Coordinators need additional training to facilitate the person-centered planning process and support individuals with all disabilities, including brain injury. As part of our initial assessment, OLTL identified that conducting the person-centered planning process and providing information in plain language in a manner that is accessible to individuals with disabilities as a weakness. OLTL’s transition plan includes a remediation strategy that addresses training for Service Coordinators (please see page 3 of the transition plan).

3. **Page 2 - ¶ 3** – 42 CFR 441.301 (b) (6) (c) (2) - The setting in which the individual resides under the federal “setting” requirements should be the setting that matches the continuum of need for recovery, in the absence of Medical Assistance funding through the state Medicaid Plan. Residential rehabilitation may be the least restrictive, most integrated option to avoid the institutional options of a mental hospital, jail or nursing home. PA should not require anyone in any waiver to live in a “private home” to qualify for waiver services but rather use the setting’s definition provided under the federal rules which matches the setting to the most appropriate, least restrictive integrated setting that is suitable given the needs of the person.

   **Response:** OLTL concurs that there should not be a cookie cutter approach in narrowly defining allowable settings. CMS has provided states with an opportunity to present evidence as to why, what might be viewed as a restrictive, isolating settings, may still be appropriate for some individuals. OLTL intends, through the assessment phase of the transition process, to thoroughly look not only at settings but at the needs of the participants in those settings.

4. **Page 3 - ¶ 1** – 42 CFR 441.301 (b) (6) (c) (3) - Providing information in plain language that is accessible to individuals with cognitive impairment during brain injury recovery may well require a “cognitive interpreter” in the form of a Supports Broker, which the waivers do not provide.

   **Response:** As part of our initial assessment, OLTL identified that conducting the person-centered planning process and providing information in plain language in a manner that is accessible to individuals with disabilities as a weakness. OLTL’s transition plan includes a remediation strategy that addresses training for Service Coordinators (please see page 3 of the transition plan).
Page 3 - ¶ 2 – 42 CFR 441.301 (b) (6) (c) (3) - Persons impaired by brain injury are generally unable to participate effectively in a problem solving process during times of conflict or disagreement. This is a burden that can cause cognitive overload, making them unable to handle other matters, including the activities of daily living, perhaps for days. They need an advocate in the form of a Supports Broker who can remember and relate events, think sequentially, note failed approaches, offer alternatives, and in general, present the concerns of the waiver participant in a concise manner and negotiate a resolution. These skills are among the cognitive losses that characterize brain injury, both traumatic and non-traumatic. These are the limitations that are common to persons who are disabled by brain injury.

OLTL has considered adding Supports Brokerage as a waiver service to support those individuals who self-direct their services. This change is still under consideration. As part of OLTL’s assessment and discovery process, OLTL will be identifying those areas in which Service Coordinators need additional training to facilitate the person-centered planning process and support individuals with all disabilities, including brain injury. As part of our initial assessment, OLTL identified that conducting the person-centered planning process and providing information in plain language in a manner that is accessible to individuals with disabilities as a weakness. OLTL’s transition plan includes a remediation strategy that addresses training for Service Coordinators (please see page 3).

Page 3 - ¶ 3 – 42 CFR 441.301 (b) (6) (c) (2) - The paternalistic, even authoritarian approach described in this paragraph, does not match the federal intention of personal choice. The individual with a brain injury as an adult had all of the things mentioned but can no longer enjoy them until brain injury rehabilitation restores sufficient cognitive function. “The state must ensure that the setting chosen by the individual is integrated in, and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.” The lack of ability to do most of these things is the nature of brain injury, the reason why help is needed. This paragraph implies that those who cannot be fully integrated into the community should not receive Medicaid HCBS and are best served in nursing homes. That is clearly not the case.

OLTL is not in a position to alter federal regulations. Having said that, OLTL views the person-centered provision of CMS’ HCBS rule as the lynchpin in determining the appropriateness of one’s surroundings. The concerns raised by the commentator would be addressed through the person-centered planning process.

Page 3 - ¶ 4 - 42 CFR 441.301 (b) (6) (c) (2) – This item should be revised to read: “At a minimum, for the written plan to be understandable, it must be written in plain language and presented in a manner that is accessible to individuals with disabilities and persons who are limited English proficient, including providing advance copies and allowing time for prior discussion with the Supports Broker and other individuals with whom the waiver participant is comfortable. “ A person with a brain injury requires extra time to process, may need to make notes for the coming meeting, and may need the help of others to consider the components of the plan and formulate questions or concerns.

OLTL is not in a position to alter federal regulations. However, as noted above, OLTL will develop training for service coordinators to facilitate the person-centered planning process.

Page 3 - ¶ 5-7- 42 CFR 441.301 (b) (6) (c) (2) - These items seem to apply to service plan modifications on the part of an institution or Supports Coordinator, rather than the personal choices of a waiver participant. In the alternative, this implies that the personal choices of the waiver participant must be vetted through an exhaustive series of filters for that personal choice to be acceptable to the state. Unfortunately, any delay could have adverse consequences to the participant, so it may be better to err on the side of caution, provide the modification, then watch for improvement that would allow less intense services.

It is unclear of the intent of this comment. This section of the Federal regulations outline the specific requirements of what must be included in the person-centered plan and how the plan is developed.
As part of OLTL’s assessment and discovery process, OLTL will be identifying those areas in which Service Coordinators need additional training to facilitate the person-centered planning process and support individuals with all disabilities, including brain injury. OLTL’s transition plan includes a remediation strategy that addresses training for Service Coordinators.

OLTL routinely conducts Consumer Satisfaction Surveys of waiver participants. Based on feedback concerning the draft transition plan, OLTL is incorporating into the plan face-to-face quality monitoring visits with a sampling of participants in each waiver. Criteria used to determine the sampling, as well as the content of the script used for the quality monitoring visits, will be part of the stakeholder input process. The Service Coordinator monitoring tool will provide another mechanism to gauge consumer satisfaction. In addition, as the transition plan is developed, the Department will utilize a number of venues in which to solicit stakeholder input, including, but not limited to, vetting of findings and remediation with the Long-Term Care Subcommittee of the Medical Assistance Advisory Committee and use of focus groups to solicit additional stakeholder input on the transition plan.

OLTL has considered adding Supports Brokerage as a waiver service to support those individuals who self-direct their services. This change is still under consideration. OLTL’s transition plan includes a strategy for training service coordinators in all areas of person-centered planning including the process of offering individuals choice.

This language is directly from the CMS rule, not from OLTL. Furthermore, these risks would be identified during the person-centered planning process.

This language is directly from the CMS rule, not from OLTL. Furthermore, these areas of concern would be identified during the person-centered planning process.
Page 7 - ¶ 5 - 42 CFR 441.301 (c) (4)(i) – “The setting is integrated in and supports full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.”

While the setting may permit these activities, it is not fair to imply that all individuals must prove their integration by participating in these activities. Those with brain injury were valued members of their communities and families prior to their injury – and now they need time to recovery and repair without placing demands on them that are not related to their recovery. Some may be interested in these opportunities as part of their recovery, but there should be no requirement that they choose goals and participate in any activity just to meet “setting” requirements.

OLTL is not in a position to alter federal regulations. However, OLTL views the person-centered provision of CMS’ HCBS rule as the lynchpin in determining the appropriateness of one’s surroundings. The concerns raised by the commentator would be addressed through the person-centered planning process.

Page 8 - ¶ 3 – Service monitoring is essential to assure the delivery of the services in the service plan.

OLTL concurs and is planning to assist service coordinators with the development of a monitoring tool.

Page 8 - ¶ 8 – As far as robust stakeholder review, it does not appear that waiver participants are routinely surveyed in ways that they can respond. There has not been one mention of participation in a stakeholder survey by any caller. One year, I reviewed the proposed printed survey in use, and sent comments to promote cognitive accessibility. I do not know what was eventually sent out, but cognitive problems block participation in written surveys. Face-to-face interviews are needed – perhaps in a group with pizza – provided by a neutral party such as ABIN-PA – according to the practice of OMHSAS in funding the Consumer Satisfaction Team to speak with service recipients in person.

OLTL routinely conducts Consumer Satisfaction Surveys of waiver participants. Based on feedback concerning the draft transition plan, OLTL is incorporating into the plan face-to-face quality monitoring visits with a sampling of participants in each waiver. Criteria used to determine the sampling, as well as the content of the script used for the quality monitoring visits, will be a part of the stakeholder input process.

Page 9 – last ¶ - Please do not “Amend the Personal Assistance Services definitions in the Aging and Independence waivers to clearly identify that services are provided to participants that reside in a “private home”. Please include the all of the settings permitted by the federal government in all the waivers.

Available affordable, accessible housing has been consistently recognized as a barrier for providing home and community-based services, especially for those individuals transitioning from nursing facilities. This specific step in OLTL’s draft transition plan has been removed, as OLTL recognizes that it may in fact be perceived as restricting. As part of OLTL’s assessment and discovery process, OLTL may determine that changes/clarifications need to be made in current service definitions or new service definitions developed.

2

Comment
Response

Pennsylvania Adult Day Services Association (PADSA)

While the physical setting and appearance of our Centers may vary, we are bound by a common regulatory process and oversight. The PA Department of Aging licensing division insures our provision of Person Centered Care that is regulated by our Care Plan Systems and demonstrated through our activity based programs.

DPW appreciates the role that Department of Aging licensure plays in Adult Daily Living Centers but is held to CMS regulation. The provisions of the OLTL transition plan will allow OLTL to gain a full understanding of whether and how these Centers comply with the new rule.

We understand that OLTL is currently looking at a handful of Centers that, due to their physical locale, may be viewed as restrictive in environment (by CMS criteria). PADSA believes strongly these centers are HCBS based on the services the centers provide and who they provide them to. PADSA will be happy to work as a liaison between the Centers in question and OLTL.

OLTL will be assessing these centers to ascertain their compliance or non-compliance with the rule.

3

Comment
Response

Philadelphia Corporation of Aging (PCA)
Although the Philadelphia Corporation for Aging (PCA) fully supports the OLTL’s desire to increase the number of unduplicated persons served in the Waiver, PCA would also appeal to the OLTL to take advantage of this opportunity to submit other changes to the Waiver that were identified as “parking lot” issues upon the recent renewal of the Waiver.

Moreover, it is PCA’s understanding that the OLTL is currently reviewing a set of findings and recommendations made by Mercer, LLC to address a number of process and procedural issues related to Participant Access and Eligibility and Participant-Centered Planning and Service Delivery. PCA would encourage the OLTL to review the findings of the Mercer engagement with stakeholders, prior to the submission of the proposed amendment, and incorporate mutually agreed upon recommendations in the proposed amendment to the Waiver.

PCA would emphasize the need to reinstate Extermination Services as a covered service under the Waiver and add Interpreter Services as a Waiver service, which “may be offered as a waiver service” (Appendix B-8, CMS Instructions for 1915(c) HCBS Waiver).

Finally, PCA supports the OLTL’s efforts to seek guidance regarding the Commonwealth’s ongoing authority to provide Waiver services to residents of Domiciliary Homes (DomCare).

<table>
<thead>
<tr>
<th>#</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>Insufficient proof of compliance. DPW makes general claims and assumptions that all OLTL waivers comply with the new regulations. The plan provides no documentation of how OLTL has determined that the current Individual Service Plan (ISP) planning process and every setting complies with the new regulations. The plan omits several new regulatory provisions altogether. DPW at the same time admits there are compliance areas that “will be strengthened” or “will receive additional evaluation” (page 4, 7). DPW only highlights segregated Adult Daily Living Centers, but numerous services are provided across the state in numerous settings. Thus, DPW’s claims that OLTL waivers are compliant are unsupported and do not allow for meaningful public input into a full transition plan.</td>
</tr>
<tr>
<td>26</td>
<td>Lack of appropriate assessment. Relatedly, DPW has not documented any specific assessment of the ISP planning process or of every setting. Further, OLTL proposes that providers assess themselves for compliance. Self-assessment is not appropriate and greatly risks self-serving reporting of compliance to avoid legal obligations.</td>
</tr>
</tbody>
</table>

OLTL must increase the number of unduplicated recipients in the Aging, Attendant Care and Independence waiver for the current Fiscal Year prior to June 30, 2014. This type of amendment, known as a Factor C amendment, may be done retrospectively to the beginning of the fiscal year. The amendments which you are recommending must be submitted to OLTL prior to implementation as required by the new CMS rule. The overall “parking lot” concerns raised by the commentator are still under analysis for future consideration.

OLTL must increase the number of unduplicated recipients in the Aging, Attendant Care and Independence waiver for the current Fiscal Year prior to June 30, 2014. This type of amendment, known as a Factor C amendment, may be done retrospectively to the beginning of the fiscal year. The amendments which you are recommending must be submitted to OLTL prior to implementation as required by the new CMS rule. OLTL continues to analyze the findings of the Mercer study and potential changes would be addressed by future waiver amendments.

OLTL must increase the number of unduplicated recipients in the Aging, Attendant Care and Independence waiver for the current Fiscal Year prior to June 30, 2014. This type of amendment, known as a Factor C amendment, may be done retrospectively to the beginning of the fiscal year. The amendments which you are recommending must be submitted to OLTL prior to implementation as required by the new CMS rule. At this time, OLTL has no plans to add these services to the Aging waiver.

Based upon OLTL’s initial assessment of it’s waivers, a small number of waiver participants have been identified as living in Domiciliary Care Homes. As stated in OLTL’s draft transition plan, OLTL intends to conduct additional analysis to ensure that these settings are compliant with the new regulations so they may continue to be offered as a choice to waiver participants.

OTL will use the transition process to prove or disprove compliance with participant-centered planning and allowable setting requirements contained in the CMS rule. This process will consist of development and implementation of a service coordination monitoring tool to gain an understanding of how participant view their services. It will also entail a self-assessment by providers, which will simultaneously train them about the new rule and assist OLTL in gaining their perspective on compliance issues. OLTL’s Quality Management Efficiency Teams will conduct a thorough assessment of Adult Daily Living Centers to assure compliance with the participant-centered planning requirements of the CMS rule. A survey of participants will also be conducted to ensure compliance with the participant-directed provisions of the CMS rule.

As mentioned above, self-assessment is only one element in the investigatory phase and it will not be the sole or primary determiner of compliance.
<table>
<thead>
<tr>
<th>Page</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>27</td>
<td>DPW states that, at an indeterminate time in the future, a “broad department-wide assessment” will be performed “to identify any noncompliant outliers” (page 9) and that Quality Management Efficiency Teams (QMET) will perform assessments and identify non-compliant settings. DPW thus acknowledges that an assessment has not been performed but fails to provide details on how and when an assessment will be completed. The plan fails to provide any timelines, details, or assurances that people with disabilities and their families will have meaningful input.</td>
</tr>
<tr>
<td>28</td>
<td>A full transition plan should detail a neutral, comprehensive, and systematic assessment of the ISP process and all settings to ensure that non-compliance is actually identified and remedied. It is critical that persons with disabilities and their family members are involved in development and implementation. Persons with disabilities and their family members should also be surveyed for their views on the current ISP process. DPW should also provide a method for the public to identify non-compliance. DPW should specify short timelines for each stage of the assessment and commit to incorporating results and specific steps for compliance into a subsequent transition plan that will also be subject to public comment. (<em>also a CLS comment</em>)</td>
</tr>
<tr>
<td>29</td>
<td>Lack of content. Likewise, the plan does not contain adequate content to enable meaningful public comment. The plan asserts generally and vaguely what OLTL may do in the future. Such future steps are not contained in the plan, essentially allowing DPW to avoid its public notice and public comment obligations.</td>
</tr>
</tbody>
</table>
| 30   | The plan’s lack of details are as follows:  
- Regulations are listed with no steps for compliance (pages 2-3)  
- Unidentified policies and regulations may be revised  
- Unidentified service coordinator training and/or “monitoring tool[s]” (pages 5, 8, 9) may be developed  
- Non-compliance and steps for compliance may be identified in the future  
- “Work plans” will be developed in the future (pages 3, 5, 8)  
- The definition of Personal Assistance Services will be amended to “identify that services are provided to participants that reside in a ‘private home’” (page 8). The proposed language, definition of “private home,” timeline for amendment, and reason for amendment are not described.  
- “OLTL’s established stakeholder review process” (page 9) to be used in the future is not described, and no timelines are included. This leaves much room for non-compliance with the public notice and public comment requirements of the new regulations. (*also a CLS comment*) |
| 31   | (Cont’d) In the upcoming 120 days, OLTL will begin to develop a statewide transition plan for all of its waivers which will contain specific action steps, timelines and outcomes. This statewide plan will be subject to another 30-day public comment period. In addition, OLTL plans to hold regional face to face public meetings in order to ensure persons with disabilities and their family members are involved in the development and implementation of the transition plan. |
|      | OLTL concurs, and in the upcoming 120 days, will begin to develop a statewide transition plan for all of its waivers which will contain specific action steps, timelines and outcomes. This statewide plan will be subject to another 30-day public comment period. In addition, OLTL plans to hold regional face to face public meetings in order to ensure persons with disabilities and their family members are involved in the development and implementation of the transition plan. |
|      | In the upcoming 120 days, OLTL will begin to develop a statewide transition plan for all of its waivers which will contain specific action steps, timelines and outcomes. This statewide plan will be subject to another 30-day public comment period. In addition, OLTL plans to hold regional face to face public meetings in order to ensure persons with disabilities and their family members are involved in the development and implementation of the transition plan. |
|      | (Cont’d) In the upcoming 120 days, OLTL will begin to develop a statewide transition plan for all of its waivers which will contain specific action steps, timelines and outcomes. This statewide plan will be subject to another 30-day public comment period. In addition, OLTL plans to hold regional face to face public meetings in order to ensure persons with disabilities and their family members are involved in the development and implementation of the transition plan. |
DRN therefore expects a full transition plan to include the following:
- Citation to every new regulatory provision with the specific steps that DPW will take to bring each waiver into compliance, including steps to:
  - Eliminate segregated settings, such as personal care homes and day programs
  - Enable persons to transition from segregated settings with informed choice and real options for integrated settings, and assure they do not end up in other segregated settings and institutions
  - Encourage providers to develop integrated settings

In the upcoming 120 days, OLTL will begin to develop a statewide transition plan for all of its waivers which will contain specific action steps, timelines and outcomes. This statewide plan will be subject to another 30-day public comment period. In addition, OLTL plans to hold regional face to face public meetings in order to ensure persons with disabilities and their family members are involved in the development and implementation of the transition plan.

<table>
<thead>
<tr>
<th>#</th>
<th>Comment</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>34</td>
<td>We support increasing the number of participants in the Waiver Programs.</td>
<td>Thank you for your concurrence on the amendments.</td>
</tr>
<tr>
<td>35</td>
<td>Once the Service Coordination Monitoring Tool is developed, we would like more information about this, including who will complete...if the Service Coordinator is to complete, will it be a billable activity?</td>
<td>OLTL is currently working with a small group of Service Coordinators to develop the monitoring tool, which will be subject to stakeholder review and input. Service Coordinators will be trained on use of the tool and will be responsible for its completion. Use of the tool will be a billable activity as part of the service coordination process.</td>
</tr>
<tr>
<td>36</td>
<td>We support Aging Waiver services being provided in Dom Care settings.</td>
<td>Based upon OLTL’s initial assessment of its waivers, a small number of waiver participants have been identified as living in Domiciliary Care Homes. As stated in OLTL’s draft transition plan, OLTL intends to conduct additional analysis to ensure that these settings are compliant with the new regulations so they may continue to be offered as a choice to waiver participants.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#</th>
<th>Comment</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>This amendment is to occur in the 13-14 fy which will be over in a month. Does this carry over into the 14-15 fy?</td>
<td>Federal rules allow states to adjust their unduplicated participants within a given fiscal year based on their ever-changing enrollment numbers. It is not unusual for this to occur. At some point in the 2014-2015 fiscal year, OLTL may submit amendments to increase unduplicated participant numbers if necessary.</td>
</tr>
</tbody>
</table>
The COMMERC and OBRA waivers are not mentioned in this transition plan. What is the status on those caps?

This transition plan applies only to the Aging, Attendant Care and Independence waivers because they are the waivers currently being amended. A transition plan that includes the COMMERC and OBRA waivers will be developed, provided for stakeholder review and submitted to CMS within 120 days after the submission of these initial 3 amendments. It is unclear what is meant by "status of those caps" since OLTL does not have caps on services.

Paragraph 3 in the Introduction is inaccurate and needs revised to differentiate the Attendant Care waiver does not offer all the listed services. Also, TeleCare is only offered in the Aging Waiver.

This change has been made.

Page 5, Transition plan: Will the new SC monitoring tool replace the CMI?

No. The SC monitoring tools is intended to assist SCs in proactively identifying situational issues early so that they can be mitigated before they become larger problems. It will also help OLTL to identify issues relating to non-compliance with the CMS HCBS regulation. The CMI is the standardized needs assessment used to identify consumer needs for the purpose of developing the service plan.

Rather than amend the PAS definition for Residential Settings, why not add Residential Habilitation to the waivers that do not offer it?

Available affordable, accessible housing has been consistently recognized as a barrier for providing home and community-based services, especially for those individuals transitioning from nursing facilities. This specific step in OLTL’s draft transition plan has been removed, as OLTL recognizes that it may in fact be perceived as restricting. As part of OLTL’s assessment and discovery process, OLTL may determine that changes/clarifications need to be made in current service definitions or new service definitions developed.

We support OLTL’s plan to strengthen its compliance with 42 CFR § 441.301(c)(1)(iv), which requires the service planning process to reflect the cultural considerations of the individual and be conducted in a manner that is accessible to individuals with disabilities and persons who have limited English proficiency, but more detail is needed.

OLTL’s transition plan includes a remediation strategy that addresses training for Service Coordinators in the area of person-centered planning as a whole, with areas of focus in cultural considerations and conflict resolution.

We have a specific concern about a service setting which is not mentioned in the transition plan but appears to be non-compliant with the federal regulations at 42 CFR § 441.30(c)(4). Specifically, certain providers whose personal care home (PCH) licenses were revoked by the Department’s Bureau of Human Services Licensing (BHSL) for non-compliance with personal care home licensing regulations have reinvented themselves as waiver providers, providing waiver services in the same buildings they formerly operated as personal care homes, effectively isolating individuals and deterring their health and welfare in these few Philadelphia facilities.

OLTL cannot comment without knowing more about the specific provider. However, as part of OLTL’s assessment and discovery process, residential providers will be required to do a self-assessment and Quality Monitoring Efficiency Teams will conduct on-site visits to survey for compliance with the CMS rule. As part of its regular course of business, when OLTL is contacted with this type of complaint, OLTL conducts an investigation and, if appropriate, refers the complaint to the appropriate regulatory and or law enforcement entities.
The transition plan should include a plan, with stakeholder participation, to explore and facilitate the development of a wider array of housing options for this population.

OLTL concurs; available affordable, accessible housing has been consistently recognized as a barrier for providing home and community-based services, especially for those individuals transitioning from nursing facilities. As part of OLTL’s assessment and discovery process, OLTL may determine that changes/clarifications need to be made in current service definitions or new service definitions developed. In addition, OLTL plans to hold regional face to face public meetings in order to ensure persons with disabilities and their family members are involved in the development and implementation of the transition plan.

The transition plan also needs to address how OLTL will implement 42 CFR § 441.30l (c)(5), which provides that certain settings are presumptively not home and community-based. Specifically, the plan needs to address what standards and process OLTL will use to determine whether the rebuttable presumption is overcome and the setting does not in fact have the qualities of an institution.

At the end of the assessment and investigatory phase of the transition plan, OLTL will have a thorough view of the settings in which waiver services are being provided. At that time, DPW will determine the standards by which will be used to find a setting acceptable or not acceptable. Those standards will be presented to stakeholders for their input prior to adoption.

<table>
<thead>
<tr>
<th>Comment</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>We encourage OLTL to be flexible in their interpretation of home and community-based settings and not prescriptive which may limit access and choice. -The setting is integrated in, and supports full access to, the greater community. -The setting is selected by the individual from among setting options. -Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint. -Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices. -Facilitates choice in services and who provides these services.</td>
<td>OLTL concurs; available affordable, accessible housing has been consistently recognized as a barrier for providing home and community-based services, especially for those individuals transitioning from nursing facilities. The step in OLTL’s draft transition plan which describes amending the Personal Assistance service definition to clearly identify that services are provided to participants that reside in a “private home” has been removed, as OLTL recognizes that it may in fact be perceived as restricting. As part of OLTL’s assessment and discovery process, OLTL may determine that changes/clarifications need to be made in current service definitions or new service definitions developed.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comment</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Transition Plan makes several references regarding a stakeholder input process: “To ensure OLTL has robust stakeholder input, OLTL’s established stakeholder review process will be used to inform the development of any new policies.” We are unclear about this referenced process.</td>
<td>OLTL currently uses the Long Term Care Subcommittee of the Medical Advisory Committee as the venue in which to solicit input on policy and operational matters. OLTL also uses small stakeholder workgroups as appropriate when developing policies. During the transition process, use of this committee will continue and public input meetings will be held to garner additional input.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comment</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommend that this review process include, at a minimum, both (1) regular, on-going, formally scheduled forums for people with disabilities and families to provide input into the design and structure of programs and policies (reaction/response to policies or programs the Department develops alone is not sufficient) and (2) a standard process for distribution of information, outreach and request for input on draft policies that ensures adequate time for meaningful public input.</td>
<td>The Department will be conducting regional public input meetings to secure the widespread input that the commentator seeks. Additionally, OLTL will continue to use its existing stakeholder input process. All meetings of the Long Term Care Subcommittee are sunshineed and open for the public to attend and participate in.</td>
</tr>
</tbody>
</table>