



**Pennsylvania Health Care Association  
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**Written Testimony of**

**Pennsylvania Health Care Association and  
Center for Assisted Living Management (PHCA/CALM)**

**Delivered by  
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Executive Vice President and Chief Operating Officer**

**For A**

**Public Input Session on Pennsylvania's Home and Community-Based Waiver  
Transition Plan**

**Before the  
Department of Public Welfare**

**September 5, 2014**

Good afternoon and thank you for the opportunity to come before the Department today to comment on the Department's draft transition plan relating to CMS Final Rule on Home and Community-Based Services (HCBS) as published on January 16, 2014.

I am Russ McDaid, the Executive Vice-President and Chief Operating Officer of the Pennsylvania Health Care Association and the Center for Assisted Living Management, better known as PHCA and CALM.

PHCA and CALM advocate for compassionate, quality long-term care for Pennsylvania's elderly and disabled residents. Our nearly 450 members are predominantly long-term care providers, including nursing homes, personal care homes and assisted living residences, retirement communities and other multi-level care campuses, whose top priority is to provide quality health care and quality of life for those entrusted to their care.

Our members provide high-quality round-the-clock care and services, and their top priority is the delivery of quality health care and an enhanced quality of life for those entrusted to their care. Each day, PHCA/CALM members care for nearly 33,000 elderly and disabled individuals, many of whom return home thanks to the skilled and compassionate quality care offered by our members.

Since CMS publication of the proposed HCBS Rule, PHCA and CALM, along with our national Association the American Healthcare Association (AHCA), commented on our serious concerns relating to provisions of the rule that prohibited the delivery of waiver services in certain settings based on structure, location, or proximity to 'institutional' care. The Final rule, while far from providing states with the flexibility that we believe they need to ensure continuity of services and care for consumers currently covered under the impacted waivers, represents a significant improvement over the proposed rule.

In the final HCBS Rule, CMS noted in one of the 'Fact Sheets' that can be found on the CMS website that they are moving ". . . away from defining home and community-based settings by 'what they are not', and toward defining them by the nature and quality of participants' experiences". The final rule removed some of the 'bright lines' as it relates to the location, geography, or physical characteristics of permissible settings, and replaced them with a more outcomes focused framework to determine whether a setting meets the requirements of the rule.

PHCA and CALM believes that the additional flexibility afforded states in the final rule is necessary and appropriate. With the publication of Pennsylvania's draft transition plan, the Department has started the discussion at the state level.

We have one comment specific to the issues addressed in the Department's draft plan. The 'Unallowable Settings' is very clear that home and community-based settings do not include nursing facilities, institutions for mental diseases (CMS terminology), ICFs/ID and hospitals. Yet, under Pennsylvania's Aging 60+ waiver, nursing facilities are one of the venues noted as approved respite care providers. Respite care is one of the most critical services allowing the consumer's needs to be met in the community. Without the ability to obtain 24/7 respite services periodically under the waiver, a number of consumers could be forced into 24/7 care settings unnecessarily. We urge the Department to do everything you can to avoid disrupting this important service for consumers living in the community and their families as Pennsylvania's transition plan is operationalized.

We would urge that the Department exercise the maximum amount of flexibility afforded to it as the plan is finalized, with an eye to retaining the optimal choices of settings for Pennsylvania's waiver consumers. Thank you for the opportunity to comment today and we look forward to further discussion as this discussion moves forward.