

HOME AND COMMUNITY-BASED SETTINGS & TRANSITION PLANNING

August 2014



Presentation Overview

- Brief overview of the CMS Final Rule.
- Person-Centered Planning Requirements.
- Transition planning to come into compliance with the HCB settings requirements.



Terminology

- **HCBS** – Home and Community-Based Services
- **HCB Characteristics** – Collective term for Home and Community-Based Characteristics (CI, PCP, HLE)
- **HLE** – Home-Like Environment
- **PCP** – Person Centered Planning
- **CI** – Community Inclusion



The Intent of This Rule

- To ensure individuals receiving long-term services and supports through Home and Community-Based Service (HCBS) programs under the 1915(c), 1915(i) and 1915(k) Medicaid authorities have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate.
- To enhance the quality of the HCBS and provide protections to participants.



Affected Florida Programs

- 1915(b)(c) Long-term Care Waiver (LTC)
- 1915(c) Model Waiver
- 1915(c) Project AIDS Care Waiver (PAC)
- 1915(c) Traumatic Brain and Spinal Cord Injury Waiver (TBI/SCI)
- 1915(c) Adult Cystic Fibrosis Waiver (ACF)
- 1915(c) Familial Dysautonomia Waiver (FD)
- 1915(c) Developmental Disabilities Individual Budgeting Waiver (iBudget)
- 1915(i) HCBS State Plan Service/Redirection



HCB Characteristics

- **Home like environment**

“A homelike environment is one that de-emphasizes the institutional character of the setting”.

- **Person-Centered Planning**

A process that results in a plan of care with individually identified goals and preferences, including those related to community participation, employment, income and savings, health care and wellness, education and others.

- **Community Inclusion**

Participation by individuals receiving Medicaid HCBS in the greater community to the same extent as those not receiving Medicaid HCBS.



Settings that are NOT Home and Community–Based

- Nursing facility
- Institution for mental diseases (IMD)
- Intermediate care facility for individuals with intellectual disabilities (ICF/IDD)
- Hospital



Settings Presumed NOT to Meet HCB Characteristic Requirements

- Settings in a publicly-or privately-owned facility providing inpatient treatment.
- Settings on ground of, or adjacent to, a public institution.
- Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.



BUT....



- The rule gives the Secretary of Health and Human Services (HHS) the discretion to determine if certain settings meet the HCB characteristic requirements.
- States may submit evidence to support whether setting(s) subject to HHS' heightened scrutiny do meet HCB characteristics.



HCB Settings Requirements

- The home and community-based setting requirements establish an outcome oriented definition that focuses on the nature and quality of individuals' experiences.
- The requirements maximize opportunities for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting:
 - **Remember the Olmstead/DOJ mandate.**
 - **The new standards are “experiential” and about “qualities” of the setting.**



Hallmarks of Compliant Settings



42CFR441.310(c)(4)

- Is integrated in and supports access to the greater community.
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS.



HCB Setting Requirements

- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting.
- The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and , for residential settings, resources available for room and board.



HCB Setting Requirements cont.

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.
- Optimizes individual initiative, autonomy, and independence in making life choices.
- Facilitates individual choices regarding services and supports, and who provides them.



Residential Settings: Additional Requirements

- Each individual has privacy in his/her sleeping or living unit.
- Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed.
- Individuals sharing units have a choice of roommates.
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.



Residential Settings: Additional Requirements cont.

- Individuals have freedom and support to control their schedules and activities and have access to food any time.
- Individuals may have visitors at any time.
- Setting is physically accessible to the individual.



Private Rooms?



- Individuals must have the option to choose a private room.
- Does NOT mean all providers must now offer or provide private rooms.
- Note: Individual must have “resources available for room and board”.



Non-Residential Settings

- **This is not just residential...the HCBS settings requirements apply to ALL HCB settings including day programs....**
- CMS noted in the comments....
 - “To the extent that the services described are provided (for example, residential, day, or other), they must be delivered in settings that meet the HCB setting requirements as set forth in this rule.”
- Further guidance from CMS regarding applying the regulations to non-residential HCB settings is forthcoming.



Modifying the Application of HCB Characteristics to an Individual

- CMS has developed a set of criteria that must be met when there are “modifications” to the settings requirements for an individual.
- Restrictions such as, limiting access to food or concerns about furnishings, for example, must be justified and documented.



Person-Centered Planning

- Conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare
- Identifies the strengths, preferences, needs (clinical and support), and desired outcomes of the individual
- May include whether and what services are self-directed



Person-Centered Planning

Written plan reflects:

- Setting is chosen by the individual, is integrated in, and supports full access to the greater community.
- Opportunities to seek employment and work in competitive integrated settings.
- Opportunity to 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.



What is Community Integration?

- The ability for individuals receiving HCBS to be involved with their community to the same extent as those who do not receive HCBS.
 - Work - competitive employment.
 - Volunteer – work on a political campaign; volunteering at a soup kitchen; kennel volunteer.
 - Recreation – having fun / a social life – getting together with friends, going out; peer get together; movies; gambling; shows.
 - Shopping.
 - Personal care – hairstyling; having nails done.
 - Maintaining home – maintenance and improvement; cleaning; laundry.
 - Caring for others – relatives; or others.
 - Spirituality – worship; meditation; yoga classes; meeting groups; sodalities.
 - Hobbies – Pet care; walking the dog.



SO, WHAT MIGHT THIS ALL MEAN FOR FLORIDA?



Transition Planning

- Comprehensive Transition Plan due to CMS in November.
- Florida will assess its current settings, policies and regulatory framework to determine how, and the timeframe in which, it will implement the CMS rule.
- Recipients, providers and other stakeholders will have the opportunity to comment on the Comprehensive Transition Plan before it is submitted to CMS.



Transition Plan: Public Comment Requirements

The Agency must:

- Provide a 30-day public notice and comment period on the plan the state intends to submit to CMS.
- Provide minimum of two statements of public notice and public input procedures.
- Ensure the full transition plan is available for public comment.
- Consider public comments.
- Modify the plan based on public comment, as appropriate.
- Submit evidence of public notice and summary of disposition of the comments.



Florida's Next Steps



We will review our:

- Service definitions in our waivers and state plan.
- Provider qualifications.
- Training requirements.
- Person-Centered Planning requirements and documentation.
- Information systems.
- Quality oversight:
 - Provider monitoring – licensing, certification.
 - Provider reporting requirements.
 - Performance outcome measurement.



What Standards Might We Use to Assess Settings that “Optimize” Integration?

- Physical environment allows unplanned interaction with peers without disabilities throughout the day.
- Physical environment allows occasional unplanned interaction with individuals without disabilities.
- Physical environment offers no opportunity for unplanned interaction with individuals without disabilities; requires planned interaction.



Provider Assessment

- Residential provider self-assessments have been distributed.
 - Long-term Care Waiver providers in Managed Care Plan networks did not receive the self-assessment. The Agency will work with the Managed Care Plans to assess these settings.
- Non-residential provider assessments will be distributed after CMS provides States with further guidance.
- **What is the purpose of the self-assessment?**
 - Provide insight as to what extent providers believe they comply with the rule.
 - Help us make a preliminary determination of the common/serious compliance gaps?
 - Help us create a Transition Plan that is reflective of Florida's current landscape and to develop the States' settings assessment plan.
 - Help providers understand how the rule applies to them specifically and where they may need to make improvements/operational changes.



How to Complete the Provider Self-Assessment

- Ask yourself whether your setting meets each standard:
 - Would the individuals you serve, their representatives and family agree with your assessment?
 - Would an independent monitor agree with you?



HCBS Rule References

- Many websites available on google to see new rule. Rule fact sheet:
<http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-Sheets/2014-Fact-sheets-items/2014-01-10-2.html>
- AHCA Website:
http://ahca.myflorida.com/Medicaid/hcbs_waivers/index.shtml
- AHCA contacts:
 - Long-term Care Waiver Keith.Young@ahca.myflorida.com
 - 1915(c) Waivers and Redirections Program
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Questions?

To submit questions in writing, please email
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