

HCBS Final Rule – Public Workshop

Draft Transition Plan
August 19, 2014
9:00 – 11:00 am

Legislative Building, Room 2134, Carson City Grant
Sawyer Building, Ste. 4412, Las Vegas

JENNIFER FRISCHMANN (Chief, Long Term Support Services [LTSS], Division of Health Care Financing and Policy [DHCFP]):

In March 2014, the Centers for Medicare and Medicaid Services (CMS) issued new regulations that define both the settings in which it is permissible for states to pay for Medicaid Home and Community-Based Services (HCBS) and requirements for Person-Centered Planning. The main purpose of these regulations is to ensure that individuals who receive Medicaid HCBS are integrated in and have full access to the greater community and have freedom of choice regarding where they live, as well as how and from whom they receive services.

Moving forward, the State of Nevada must submit a Transition Plan to CMS detailing the steps that will be taken to bring Medicaid into compliance within the 5 years allowed. The Transition Plan is due to CMS no later than March, 2015. These Public Workshops are part of the process to create a plan that will not only meet CMS' requirements, but address the needs of the Providers, Recipients, and Advocates. There is a Steering Committee composed of State staff, Providers, and a recipient identifying those areas of the New Rule that may need special attention. For example, the Fire Marshall regulations that, as written, might make it difficult for some recipients to age in place, and the Lease Agreement requirements. Sub-Committees focused on the Lease Agreement and other Regulatory issues have already started working to address them.

ROSEMARY (ROSIE) MELARKEY (Aging and Disability Services Division [ADSD]):

Several States have already submitted Transition Plans to CMS, but none have been accepted. Additionally, the feedback indicates that a 'Plan to Make a Plan' is not going to be accepted. Details of what will be done and how it will be accomplished will be required.

BETSY AIELLO (Deputy Administrator, DHCFP):

Have the Providers who are here today ready the CMS Plan? Do you know how it will impact you? For example, in a Group Home the New Rule requires a change from all residents engaging in the same activities at the same time, all the time, to a person-centered approach that supports individuals opting for other activities. This can be addressed through the Person Centered Plan and the Policies and Administration of the Provider.

ED GUTHRIE (Opportunity Village, Executive Director):

Who will pay for it? How will it be staffed?

BETSY AIELLO: The New Rule does not require Providers to be the only source of transportation etc., they are required to facilitate a recipient's requests. Policies that encourage recipients to create and maintain connections with the larger community and implementation of Person Centered Planning that documents and supports a recipients wishes will bring a facility into compliance.

ED GUTHRIE: Disability Dominant Settings, Accessible Space for example, appear not to meet the New Rule requirements by definition since the residences are primarily for individuals with disabilities.

BETSY AIELLO: We do not have all the answers yet. We hope to meet with Accessible Space and CMS to ensure compliance.

JOE TINIO (ECHO):

What about those group homes with residents who have Alzheimer's? These individuals are unable to make choices.

JENNIFER FRISCHMANN: If someone has no capacity to make good choices, the question then becomes, “how are they integrated into a community?” The Team that develops the Person Centered Plan becomes the responsible party.

BETSY AIELLO: A point to remember is that everyone does not have to participate in every activity at every time. The Care Plan must have more breadth; it should not be merely bathing and dressing, but must include other aspects of living a life.

ROSIE MELARKEY: Service Coordinators and Providers need training not only in the philosophy of Person Centered Planning, but also how to incorporate this philosophy into processes and routines.

ERIC DEWITT-SMITH (Sierra Regional Center):

We have developed a training program for Person Centered Planning. Starting with the basics, what does the physical plant look like? In the Individuals with Intellectual Disabilities (IID) community we have been moving recipients from Intermediate Care Facilities (ICF), which are institutional settings, into group homes for example. Just because a setting is smaller does not mean it does not have institutional characteristics. We want to make sure we are not just breaking up large institutions into smaller institutions. We work with the recipient’s Care Team (family members, providers, advocates, spiritual advisors, etc.) to determine how services will be delivered using the 3 ‘P’s: Priorities, Perspectives, Preferences. Some individuals will have restrictions that are necessary for their health, safety and welfare. But, within those restrictions, the attitude of service delivery should be focused on how best to support the wishes of the recipient.

JOE TINIO: Given that understanding, we can comply with those regulations.

BETSY AIELLO: Flexibility is required of State staff also.

BARRY GOLD (AARP):

Given that the CMS Regulations are the Regulations, it is my understanding that the State has the ability to interpret the New Rule for Disability Dominant settings and programs.

JENNIFER FRISCHMANN: Yes, but we need to know where the potential deficiencies are. That is why we sent out the Self-Assessment tool to providers in May.

SARINA ROSS (Humboldt Human Development Services):

I attended the Person Centered Planning Eric referred to. It was very helpful. I still did not understand the Self-Assessment form and I received calls from other Providers asking how to complete it. I would appreciate an opportunity to complete a revised assessment with more explanation of the contents and the purpose.

KATE MCCLOSKEY (Sierra Regional Center [SRC]/ADSD):

Person Centered Planning changes how we think about providing services.

BETSY AIELLO: There are a lot of facilities this will not affect, but there are some that are large and look institutional.

ROSIE MELARKEY: This is a 5 Year Transition Plan. If we start working now, we can determine if a setting does not meet the New Rule and why. How can it be changed? Whether by regulation changes or the business plan of the facility.

TAMMY RITTER (ADSD):

We are working toward meeting the regulations.

CHARLOTTE MCCLANAHAN (Dungarvin):

Bringing in family members and/or guardians can be problematic because they have pre-conceived ideas of what an individual is able to choose and expectations about what the facility will be able to do. For example, I recently encountered an individual whose guardian stated not to take the recipient on van rides even though he pointed to the picture of the van and then towards the door on numerous occasions. Education for the family regarding Person Centered Planning and individual choice is just as important as education for the recipients, providers and State staff.

WENDY SIMMONS (Nevada Health Care Association [NVHCA]):

Regarding residential care facilities, the language used may not be consistent across types of recipients and/or settings. Is the State looking for demonstration projects?

JENNIFER FRISCHMANN: The State is not formally applying to CMS to do a demonstration project. But an 'informal' project to find out what can be done with large facilities would help determine what waiver amendments could be written to help these facilities come into compliance with the New Rule.

WENDY SIMMONS: To re-state what you said, licensed residential facilities can set up their own demonstration projects.

JENNIFER FRISCHMANN: Yes. Contact us for help.

BETSY AIELLO: We can include a section in the Transition Plan that states Residential Providers will be working with the State as technical support to create plans for meeting the New Rule.

WENDY SIMMONS: Regarding Alzheimer's patients, we want to work on creating processes and programs that prevent people from being placed out of state, and even to facilitate bringing them back to Nevada.

BETSY AIELLO: Different things either calm or agitate a person. You cannot say that 'x' is the remedy for an Alzheimer's patient; 'x' may be the remedy for a given individual Alzheimer's patient, but the same treatment would agitate another patient.

WENDY SIMMONS: Regulations have become so over-protective and rigid that it has affected the Provider mindset.

ED GUTHRIE: What is the Preliminary Transition Plan date?

JENNIFER FRISCHMANN: I would like to have the Preliminary Transition Plan posted online by September 30. There is a 30-day public comment period required.

LESTER GIBBS (CFO, Nevada Senior Services):

How is the State going to help group homes and individuals finance this?

BETSY AIELLO: The State has to implement the Person Centered Care Planning; Providers are expected to be involved. The Care Plan will be created by State staff. The Provider is not required to provide the alternative services, but must allow them to be made available. Rates for services are set by the Legislature, so, any changes in reimbursement would have to go through the legislative process.

LESTER GIBBS: But, if one resident does not want to eat at the set dinner time, the Provider has to pay the cook to stay around and be available.

BETSY AIELLO: No, CMS does not require that specifically. If a resident wants a full, cooked meal, then s/he eats when it is served. If an alternate eating schedule is part of the Care Plan, the Provider must make a shelf in the refrigerator available, for example. The Provider does not have to purchase the extra food or prepare it. The resident's support team – family and friends – must be allowed to assist if that is necessary.

HEATHER KORBULIC (State Long Term Care Ombudsman):

First, I notice that there do not seem to be representatives from the Bureau of Health Care Quality and Compliance (HCQC) in attendance.

JENNIFER FRISCHMANN: We cannot mandate attendance, but there are HCQC representatives on the Steering Committee.

HEATHER KORBULIC: Training for all segments of the Industry is really important: State staff, Providers, Recipients, etc.

DENYSE LIZAK (HHDS):

As a rural provider, community means different things in different locations. It is also more expensive to provide services in rural areas.

SARINA ROSS: Can there be more access to these meetings for rural providers? I am here today because I had other commitments in the Reno/Sparks area, but I would normally not be able to afford to come to Carson City. Is it possible to videoconference to a site in Winnemucca or Elko?

MELANY DENNY (Organizational Development and Services Officer, High Sierra Industries):

To participate in the Person Centered Planning, we sent staff to 104 quarterly meetings. That is staff time that is not paid for. Looking at reimbursement for that time is important.

BETSY AIELLO: One aspect of the New Rule we have not discussed today is the requirement for Recipients to have Lease Agreements that afford them the same rights and responsibilities any other individual would have in the State of Nevada.

The items of particular concern that I heard in this meeting are:

Training with family and guardians about Recipient's Rights

Training for Providers and State staff

Regulations and Licensing

Rates

ROSIE MELARKEY: The revision and clarification of the Self-Assessment document.