

# HOME AND COMMUNITY BASED SETTINGS & PERSON CENTERED PLANNING

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## **CMS FINAL RULING WHAT WE KNOW SO FAR.....**

# WHY IS THIS IMPORTANT TO US

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- CMS is the focal point for the formulation, coordination, integration, implementation, and evaluation of all national program policies and operations relating to the Medicaid Program offered in all 50 States.
- In partnership with States, evaluates the success of State agencies in carrying out their responsibilities for effective State program administration and beneficiary protection, and, as necessary, assists States in correcting problems and improving the quality of their operations.
- Identifies and proposes modifications to Medicaid and measures, regulations, laws and policies to reflect changes or trends in the health care industry, program objectives, and the needs of Medicaid recipients.

# WE WILL FOCUS ON:

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- **Key provisions relating to the Home and Community-based (HCB) settings rule**
- **Key aspects of the person centered planning requirement**

# WHERE YOU CAN FIND THE FINAL RULING

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- **CMS site for any and all information:**

<http://www.medicaid.gov/mediaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

- **This site has everything CMS has available on the new regulations including fact sheets, Webinars and regulatory guidance**

# THE INTENT OF THE RULE

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- To ensure that individuals receiving long term services and supports through home and community based service 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 settings appropriate
- To enhance the quality of HCBS and provide protections to participants.

# WHAT WILL AFFECT PROVIDERS

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- **HCB Settings Character**
  - What is NOT community
  - What is likely not community
  - What is community
- **Person-Centered Planning**
  - Codifies requirements

# BEFORE WE DEFINE HCB SETTINGS CHARACTER.....

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- **Settings that are NOT Home and Community Based:**
  - Nursing facility
  - Institution for mental diseases (IMD)
  - Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
  - Hospital

# Settings PRESUMED NOT To Be Home and Community Based.....

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

# HCB Settings Character

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- Outcome oriented definition focusing on the nature and quality of individuals' experiences
- Maximize opportunities to access the benefits of community living
- Receive services in the most integrated settings
- The new standards are more focused on the “qualities” of the settings

# HCB Settings Requirements

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- 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 home and community–based services

# HCB Setting Requirements

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- Selected by the individual from among setting options including:
  - ✦ non-disability specific settings
  - ✦ option for a private unit in a residential setting
- 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

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- **Ensures an individual's rights to:**
  - Privacy
  - Dignity
  - Respect
  - Freedom from coercion and restraint
- **Optimizes individual initiative, autonomy, and independence in making life choices**
- **Facilitates individual choice regarding services and supports and who provides them**

# Congregate Settings and the HCB Settings Requirement

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## Question?

- Do congregate settings have the qualities and experiences of a permissible HCB setting?

# Provider-Owned or Controlled Residential Settings

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- **Specific requirements where services and living arrangements are combined or “bundled” by one provider.**
- **These requirements are:**
  - Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement
  - Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity

# Provider-Owned or Controlled Residential Settings

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- **If tenant laws do not apply, providers must:**
  - Ensure the lease, residence agreement or other written agreement in place provides protections against eviction
  - Provide appeals comparable to those under the jurisdiction's landlord tenant law

# Provider-Owned or Controlled Residential Settings

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- **Privacy in sleeping or living unit**
- **Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed**
- **Choice of roommates**
- **Freedom to furnish and decorate their sleeping or living units within the lease or other agreement**

# Provider-Owned or Controlled Residential Settings

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- **Freedom and support to control:**
  - schedules
  - activities
  - access to food
  - visitors at any time

# Provider-Owned or Controlled Residential Settings

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- **Specific criteria must be met when there are “modifications” to settings requirements for an individual**
- **i.e. restrictions such as limiting access to food or concerns about furnishings**

# So What Does this Mean

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## **Settings must:**

Optimize and not regiment individual initiative, autonomy and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact

# Person Centered Planning

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- **Process is driven by the individual**
- **Team includes people chosen by the individual**
- **Provides necessary information to ensure the individual directs the process to the maximum extent possible**
- **Is timely and occurs at times/locations of convenience to the individual**
- **Plain language that is understandable**

# Person Centered Planning

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- **Reflects cultural considerations/uses plain language**
- **Offers choices to the individual regarding services and support the individual receives and from whom**
- **Provides method to request updates**

# Person Centered Planning

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- Reflection of what is important to the individual to ensure delivery of services in a manner reflecting personal preference and ensuring health and welfare
- Identifies the strengths, preferences, needs, and desired outcomes of the individual
- May include whether some or all services are self directed

# Person Centered Planning

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## Written plans reflect –

- Setting is chosen by the individual and 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

# Person Centered Planning

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- Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others
- Includes risk factors and plans to minimize them
- Is signed by all individuals and providers responsible for its implementation and a copy of the plan must be provided to the individual and his/her representative

AND

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**Individuals must be afforded access to the greater community to the same degree of access as individuals not receiving Medicaid HCBS**

# Full Access to the Community

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## How do people engage in community life?

- **Planned Activities:**

- Work
- Volunteer work
- Learning experiences and activities (book clubs, art classes, etc.)
- Recreation – swimming, dancing, etc.
- Social Life – getting together with family, friends, people visit them in their home
- Peer Support Groups

# Full Access continued....

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- **Personal Care – hairstyling, having nails done**
- **Maintaining home – actively engaged in this**
- **Caring for others, like family and friends**
- **Spirituality: worship, meditation, yoga classes**
- **Hobbies: gardening, painting, photography**
- **Going on Vacation**

# Full Access

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- **Unplanned Interaction with the community**
  - Quick stop at the store
  - Borrowing items from a neighbor
  - Waiting at the bus stop
  - Shoveling snow for a neighbor
  - Hanging out at the pizza parlor
  - Answering the door or phone
  - Etc.

# Factors to Consider

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- If activities are conducted in groups, is there a size at which integration is less likely to occur?
- What is the frequency of the activity?
- Should standards differ by age of the individual?
- Should standards reflect the purpose of the setting?
- Will staffing levels be affected by this change?

# Transition Planning

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- **Make a draft transition plan available to the public for comment. The transition plan must detail how the state will operate its HCBS programs in accordance with the new regulations.**
- **Provide a notice-and-comment period of at least 30 days.**
- **Consider and modify the transition plan, as the state deems appropriate, to account for public comment.**
- **Submit a summary of the comments to the Centers for Medicare and Medicaid Services (CMS) with a proposed transition plan, including a list of changes made in response to the comments, and an explanation of why other comments did not lead to changes.**

# Potential Pitfalls & Unknowns

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- **Non-residential setting regulations not finalized**
  - Adult Day Health Care
  - Jobs & Day Training
- **Licensing regulations**
  - Fire Marshall
  - Bureau of Health Care Quality and Compliance
- **Larger facilities**
  - May be too institutional
- **Out of State Facilities**
  - Not Nevada community based
- **Staffing Issues**

# Contact Information

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- **Leslie Bittleston**

- 775-684-3624 or [leslie.bittleston@dncfp.nv.gov](mailto:leslie.bittleston@dncfp.nv.gov)

- **Jennifer Frischmann**

- 775-684-3747 or [jennifer.frischman@dncfp.nv.gov](mailto:jennifer.frischman@dncfp.nv.gov)

# OPEN DISCUSSION

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