

**HOME AND COMMUNITY BASED  
SETTINGS  
&  
PERSON CENTERED PLANNING**



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

## WE WILL FOCUS ON:



- **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



- **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



- To ensure that individuals receiving long term services and supports through home and community based service programs under the 1915 ©, 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



- **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.....



- **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.....



- 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



- 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



- 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



- 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, preference's and for residential settings, resources available for room and board

# HCB Setting Requirements



- **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



## Question?

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

# Provider-Owned or Controlled Residential Settings



- **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



- **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



- **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



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

# Provider-Owned or Controlled Residential Settings



- **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



### **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



- **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



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

# Person Centered Planning



- 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 and what services are self directed

# Person Centered Planning



## 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



- 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



**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



## 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....



- **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



- **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



- 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

# Transition Planning



- **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



- **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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# OPEN DISCUSSION

