Human Services Research Institute

Revised CMS Expectations for HCBS Quality and Person-Centered Services and Supports

Florida Statewide Quality Council

March 2014

Valerie J. Bradley, HSRI President

Elizabeth Pell, HSRI Policy Analyst

New Rule Established to…

- Ensure people receiving long-term services and supports through Medicaid home and community based (HCBS) programs have full access to the benefits of community living and have opportunities to receive services in the most integrated setting appropriate
- Enhance the quality of HCBS supports and to provide protections to participants
- Rule published January 16, 2014 / Effective March 17, 2014

New Rule Big Picture

- Aligns HCBS setting (e.g., residential, day) requirements across 3 Medicaid authorities: **1915(c), 1915(i) and 1915(k)**
- **Defines HCBS setting requirements** that are consistent with community norms and that emphasize the participant's quality of life and experiences
- Requires **person-centered service planning** for those in HCBS settings under 1915(c) HCBS waiver and 1915(i)
- Implements regulations for section 1915(i), including flexibility to offer **expanded HCBS supports to targeted populations**

New Rule Big Picture

- Allows states to combine **multiple target populations in one 1915(c) waiver** to facilitate streamlined administration
- Gives CMS additional **compliance options beyond termination** for HCBS programs
- Establishes 5-year renewal cycle to align concurrent authorities for certain demonstration projects or waivers for individuals who are dual eligible

New Requirements for ….

HCBS Settings

Places Where People Live and Spend Time During the Day Must…

- Conform to the ADA and the Supreme Court decision in the ***Olmstead*** case
- Support valued outcomes such as choice, privacy, and community inclusion in the most integrated setting
- Be assessed based on the individual's experience and choices rather than solely on location, geography and physical characteristics
- Apply to **all** HCBS service settings: residential and day

What is not a HCBS Setting

- Nursing facility
- Intermediate Care Facility for people with intellectual and developmental disabilities (ICF/DD)
- Hospital
- Institution for people with mental disease

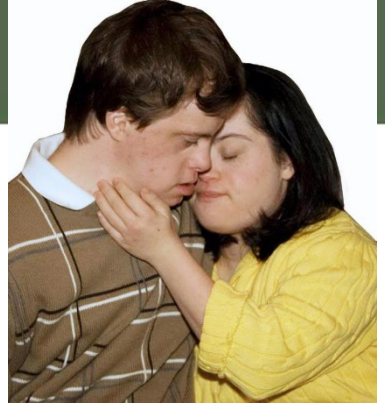
Presumed not to be a HCBS Setting

Settings with institutional qualities such as:

- Facilities providing inpatient treatment (public or private)
- Homes on the grounds of, or immediately adjacent to, a public institution
- Settings or locations that isolate individuals from the broader community

What *is* an HCBS Setting

- 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 that the individual receives services in the community with the same degree of access as individuals not receiving Medicaid home and community-based services



What *is* an HCBS Setting

- Allows full access to the greater community
- Is chosen by the individual from among residential and day options that include generic settings
- Respects the participant's option to chose a private unit in a residential setting
- Ensures right to privacy, dignity and respect and freedom from coercion and restraint
- Optimizes autonomy and independence in making life choices
- Facilitates choice of services and who provides them

Additional Requirements: Provider-Owned or Controlled Residential Settings

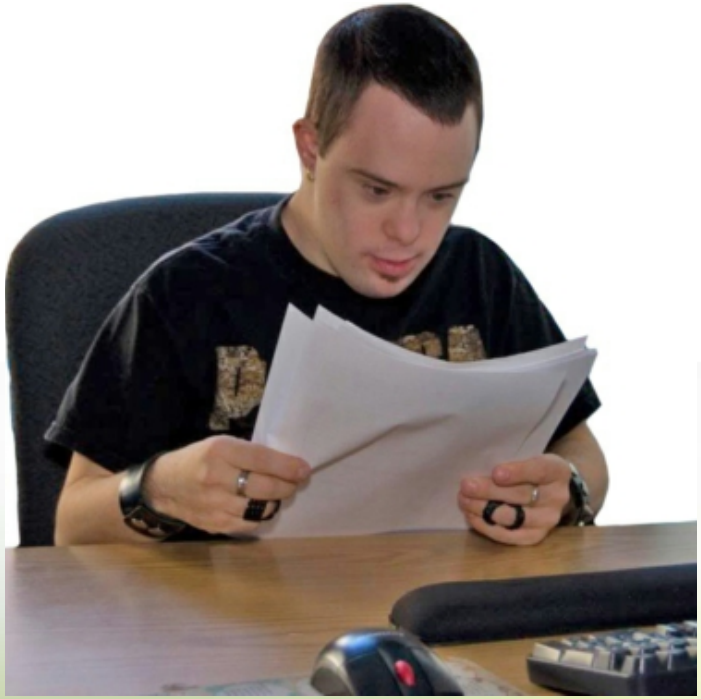
Individuals must have:

- A lease or other legally enforceable agreement to protect from eviction
- Privacy in their unit including entrances lockable by the individual (staff have keys as needed)
- Choice of roommates
- Freedom to furnish and decorate their unit
- Control of their schedule and activities
- Access to food at any time
- Visitors at any time
- Physical accessibility

Deviations from rule (except accessibility) must be supported by a specific assessed need and justified in the person-centered service plan

New Requirements for ….

HCBS Settings Transition Plans



Transition Plan: New Waivers

For **new 1915(c) HCBS waivers or 1915(i) HCBS State Plan** benefits - States must ensure services are only delivered in settings that meet new requirements.

Setting Transition Plans: Renewal/Amendment

For **renewals and amendments to existing HCBS 1915(c) waivers** submitted within 1 year of effective date of final rule:

- State must submit a plan in the renewal or amendment that provides details of any actions that will be necessary to meet the new requirements and to document that compliance has been achieved.
- Approval of the renewal application or amendment will be contingent on the inclusion of a transition plan that can reasonably be judged to bring the program into compliance.

Transition Plans: Current 1915(c) waivers and 1915(i) State Plan Services

For **all existing** 1915(c) HCBS waivers and 1915(i) HCBS State Plan benefits in the state, the state must submit a plan:

- Within 120 days of the first renewal or amendment request the state is required to submit transition plans that detail how the state will comply with the settings requirements in **ALL** 1915(c) HCBS waivers and 1915(i) HCBS State Plan benefits.
- The level and detail of transition plan will be determined by the types and characteristics of settings used in the state.

If HCBS Transition Plans Include Settings ***Presumed Not*** to Conform with New Rule

Such settings will require **heightened scrutiny** and can only be included in 1915(c), (k), or 1915(i) HCBS supports if:

- State submits evidence (including public input) demonstrating that the setting has the qualities of a home and community-based setting and NOT the qualities of an institution; AND
- DHHS Secretary finds, based on a heightened scrutiny review of the evidence, the setting meets the requirements for HCBS settings and does NOT have the qualities of an institution.

Requirements for ALL! Transition Plans

- State must provide a 30-day public notice and comment period on the plan the state intends to submit to CMS
- Provide minimum of 2 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

Transition Plan Approval

- Implementation of plan begins upon approval by CMS
- Failure to *submit* an approvable plan may result in compliance actions
- Failure to *comply* with the terms of an approved plan may result in compliance actions

Requirements for ….

Person Centered Service Planning

Person-Centered Service Planning

- Service planning process is driven by the individual
- Includes people chosen by the individual
- Provides necessary information and support to ensure that the individual directs the process to the maximum extent possible
- Is timely; occurs at times and locations convenient to the individual
- Reflects cultural considerations
- Plan discussions are in plain language. Information is available in a manner that is accessible to individuals.

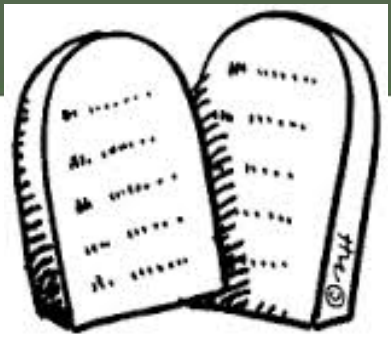
Person-Centered Service Planning

- Includes strategies for solving disagreement within the process, including clear conflict of interest guidelines for all planning participants
- Offers choices to the individual regarding the services and supports the individual receives and from whom
- Provides a method for individual to request updates
- May include whether and what services are self-directed
- Is signed by all individuals and providers responsible for its implementation. A copy of plan must be provided to individual and his/her representative.

Person-Centered Service Planning

- Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others
- Identifies the strengths, preferences, needs (clinical and support), and desired outcomes of individual
- Includes risk factors and plans to minimize them
- Reflects what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare

Service Plan Must Document…



- Setting is chosen by the individual and supports full access to the community
- There are opportunities to seek employment and work in competitive integrated settings
- Supports are in place to assist the individual to engage in community life, control personal resources, and receive services in the community
- Supports and services are linked to individual's strengths and preferences
- Supports and services align with assessed clinical and support needs

Service Plan Must Document. . .

- Individual's goals and desired outcomes are included
- Any risk factors are identified and measures are in place to minimize risk
- Individualized backup plans and strategies are present when needed
- Providers of services and supports, including unpaid supports provided voluntarily in lieu of waiver or state plan HCBS
- The individuals responsible for monitoring plan
- Informed consent of the individual in writing

Service Plan Must Document . . .

- That the service plan has been given to the individual and others involved in plan
- Any self-directed services and supports
- Justification for any restrictions or modifications that are not consistent with the HCBS guidelines (e.g., with respect to specific choices, roommates, access to food, etc.)
- Plan has been reviewed and revised upon reassessment of functional need as required every 12 months, when the individual's circumstances or needs change significantly, and/or at the request of the individual.

Opportunities to Combine Waivers & Populations

- Applicable: 1915(c) HCBS Waivers
- Allows states to combine multiple target populations into one waiver to facilitate streamlined administration of HCBS waivers and facilitate use of waiver design that focuses on functional needs (not diagnosis)
- Applies to 3 existing groups:
  - Aged/disabled
  - Intellectually/developmentally disabled
  - Mental illness

HCBS Quality Evolves

- Federal government sets HCBS quality requirements for state Medicaid agencies.
- States organize service delivery to meet requirements and provide evidence of quality monitoring to CMS.
- Service systems evolve as do expectations for what quality is. New HCBS rules emphasize outcomes (integrated community lives) and rights of people with disabilities.

New HCBS Rules

Implications for Florida's I-budget HCBS Waiver

Questions Re: Florida's DD Waiver

- Any residential settings *Presumed Not* to meet new criteria?
- Any day or workshop settings *Presumed Not* to meet new criteria?
- Service planning process and procedures consistent with new requirements?
- Service plan documentation consistent with new requirements?

Reference Sources

1. Medicaid.gov website, Home & Community Based Services page, Final Regulation Fact Sheets and webinar PPT: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Support/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html
2. PPT, “Improvements in 1915c Waiver Quality Requirements," Division of Long-Term Services & Supports Disabled and Elderly Health Programs Group August 13, 2013. Prepared by the National Quality Enterprise.
3. Florida’s DD waiver (FL_0867_R01_00) Quality Improvement Strategy
4. Photos of people in this Power Point were purchased by HSRI from Symbols for Life. http://www.symbolsforlife.com/

Contact information for Human Services Research Institute (HSRI):

Valerie J. Bradley, phone 617-876-0426 x 2319, email vbradley@hsri.org

Elizabeth Pell, phone 617-876-0426 x 2307, email epell@hsri.org