



Department of Developmental Services

Home and Community-Based Services
Advisory Group Meeting
February 17, 2015

Santi
Rogers

Director

Department of
Developmental
Services



WELCOME AND INTRODUCTIONS

Nancy Bargmann
Deputy Director
Department of Developmental Services

STAKEHOLDER INVOLVEMENT

Steering Committee

- Provides high-level direction and guidance on how to organize and move issues forward

Statewide Advisory Group (Advisory Group)

- 21 members: consumers, providers regional centers, advocacy, DS Task Force members and NCI workgroup participants
- Provides deeper analysis and recommendations
- Provides input to DDS in developing a focused transition plan

Workgroups

- May be topic specific and focused on analyzing data, provide recommendations for assessment and implementation to the Advisory Group

All public input welcomed and encouraged

ADVISORY GROUP PROCESS

Focused planning process will include close coordination

- Department of Health Care Services (DHCS)
 - The state agency responsible for official communications with the Centers for Medicare & Medicaid Services (CMS)
- Department of Social Services (DSS)
- Association of Regional Center Agencies (ARCA)
- Consumer advisory
- Provider organizations

CENTER FOR MEDICARE AND MEDICAID SERVICES (CMS)

HOME AND COMMUNITY-BASED SERVICES (HCBS) REGULATIONS

BACKGROUND AND OVERVIEW

Jim Knight

Assistant Deputy Director

Department of Developmental Services

“HCBS RULES”
CMS 2249-F AND CMS 2296-F

- Published January 16, 2014
- Effective March 17, 2014
- Official title published in the Federal Register:
 - *Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice (Section 1915(k) of the Act) and Home and Community-Based Services (HCBS) Waivers (Section 1915(c) of the Act)*

CMS: THE INTENT OF THE NEW RULE

- To ensure that 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 HCBS and provide protections to participants

OVERVIEW OF THE NEW RULE

- Conflict-free case management
 - Was just in guidance, now it is in rule
- Implements the final rule for 1915(i) State plan HCBS—same requirements on HCB settings characteristics, person-centered planning
- Establishes HCB settings characteristics
- Sets conditions and timelines for filing transition plans and coming into compliance with the HCB settings requirements

KEY ELEMENTS

- HCB Settings Characteristics
 - What is NOT community
 - What is likely not community
 - What is community
- Person-centered planning
 - Codifies requirements
- Conflict-free case management
 - Was just in guidance, now it is in rule

WHAT SETTINGS ARE NOT HOME AND COMMUNITY-BASED

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

HCBS SETTING 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
- 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

HCBS SETTING REQUIREMENTS

- 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 choice regarding services and supports, and who provides them

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 under 1915(i) or 1915(k) (for example, residential, day, or other), they must be delivered in settings that meet the HCB setting requirements as set forth in this rule.

CMS GUIDANCE ON SETTINGS THAT MAY ISOLATE INDIVIDUALS

Settings that are Presumed to have the Qualities of an Institution:

- Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment,
- Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution, or
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

CMS GUIDANCE ON SETTINGS THAT MAY ISOLATE INDIVIDUALS

Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

- The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities
- People in the setting have limited, if any, interaction with the broader community
- Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

STATEWIDE TRANSITION PLAN (STP)

The Statewide Transition Plan is the vehicle through which states determine their compliance with the regulation requirements for home and community-based settings

- Assessment of standards, rules, regulations that comply with new regulations
- Identification of areas that are not met or not fully met
- Action plan
- Public comment

WHAT IS EXPECTED IN THE STP

- A detailed description of the state's assessment of its compliance with the HCB settings requirements and a statement of the outcome of that assessment
- A detailed description of the remedial actions the state will use to assure full compliance with the HCB settings requirements, including timelines, milestones and monitoring process
- The time frame and milestones for state actions, including assessment and remedial actions
- A description of the public input process

STATE STANDARDS TO ASSESS

What does the state need to change in these areas to help provider settings be HCBS compliant

- Licensing/certification standards
- Provider qualifications
- Service definitions and standards
- Provider training requirements
- Participant rights protections
- Plan of care requirements

DETERMINING COMPLIANCE

Determine compliance with the regulation requirements for home and community-based settings, by:

Assessing Standards, Rules, Regulations to determine:

- Fully met
- Partially met
- Not in compliance

STATEWIDE TRANSITION PLAN

Process and Timeline

Rebecca Schupp, Chief
Long-Term Services & Supports Operations Branch
Long-Term Care Division
Department of Health Care Services

DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) TRANSITION PLAN

- Outreach
- Statute, regulations, policies, procedures, and contracts / agreements
- Existing tools, processes, and automation
- Provider assessment forms
- Initial assessments: residential and non-residential
- Ongoing assessments and monitoring

The screenshot shows a web browser window with the URL <http://www.dds.ca.gov/HCBS/index.cfm>. The page header includes the California Department of Developmental Services logo and a navigation menu with links: Home, OPS, Birth to 36 Months, Developmental Centers, Regional Centers, Vendor/Provider, Consumer Corner, Transparency, and Index.

RELATED LINKS

- » CMS Information on the HCBS Regulations
- » Residential Settings Assessment Questions
- » Non-Residential Settings Assessment Questions
- » Department of Health Care Services
- » Self-Determination Program
- » Home and Community-Based Services Programs

CMS Home and Community-Based Services Regulations

This webpage contains information on the federal Centers for Medicare & Medicaid Services (CMS) regulations for Home and Community-Based Settings (HCBS) for settings where HCBS are delivered to qualify for federal funding under the Medicaid program (Medi-Cal program in California). See approved transition plans.

This webpage provides important background information and links to key websites. It will be updated periodically to reflect activities in the state's developmental disabilities service system. DDS invites you to monitor this website and stay informed about the implementation process and ways to get involved.

Following is a link to an overview of the federal requirements:

- [Overview of the Federal Requirements for Home and Community-Based Settings](#)

CMS has a website that contains various communications and fact sheets about the regulations. The information can be accessed at [the CMS website](#).

On December 19, 2014, the California Department of Health Care Services, as the single state agency for the Medi-Cal program, submitted a request for a HCBS Waiver for California programs that are affected by the home and community-based settings requirements, including the HCBS Waiver for California. Information can be accessed at the [California Department of Health Care Services website](#).

New HCBS programs are not covered by the Statewide Transition Plan. No transition period is allowed for new program implementation. All new programs must be in compliance with the home and community-based settings requirements when it is implemented.

DDS HCBS ADVISORY GROUP

On January 16, 2015, in a letter to All Interested Parties regarding the HCBS regulations, DDS announced its efforts to establish an advisory group for the developmental disabilities service system:

- [Letter regarding the HCBS regulations dated January 16, 2015](#)

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COMMUNICATION

- Website postings
 - Stakeholder structure
 - Advisory Group
- Comments from Interested Parties

NEXT STEPS/WRAP UP

- HCBS and National Core Indicator (NCI) Advisory Groups shared meeting
 - March 18 with HSRI
 - 1:30 to 4:00 PM
- Subsequent / ongoing meeting schedule
- Future agenda items
 - Review timeline and schedule of activities
 - Assessment
 - Workgroups

Tchau

A word cloud featuring various expressions of farewell and gratitude. The words are arranged in a cluster, with 'goodbye' and 'thank you' being the largest and most prominent. Other words include 'regards', 'farewell', 'sayonara', 'ciao', 'cheers', 'adieu', 'see ya', 'toodle-oo', 'so long', 'cheerio', 'godspeed', 'conclusion', 'culmination', 'adios', 'Arrivederci', 'leave-taking', 'Au-revoir', 'Auf-wiedersehen', 'envoi', and 'coda'.