

# Department of Developmental Services

Home and Community-Based  
Services Advisory Group

October 27, 2015

# Agenda

Time for public comment and breaks will be determined during the meeting

- Welcome and Introductions
- Meeting Goals
- Prior Meetings Overview
- Workgroup Activities
  - Community Information Workgroup
  - Assessment Workgroup
- Department of Health Care Services (DHCS) Status Update
- Centers for Medicare & Medicaid Services (CMS) Guidance
  - Assessment Process Steps
  - Heightened Scrutiny
  - Program Transition Plans
  - Timeline
- Next Meeting – Mid- to late April

# Meeting Goals

- Determine next steps
  - Community Information Workgroup
  - Assessment Workgroup tasks
  - Strategy for identifying settings requiring heightened scrutiny process

# Prior Meetings

- Formed Community Information Workgroup and Assessment Workgroup
- Reviewed and discussed outreach efforts
- Discussed the CMS tool to be used for evaluating statewide transition plans
- Heard presentation on how National Core Indicator data could correlate with the Department's HCBS compliance effort

# Prior Meetings

- Received updates from the Department of Health Care Services
  - Statewide Transition Plan and revisions
  - Provider Survey Tool
  - On-site Assessment tool
  - Public teleconference
- Reviewed and discussed draft worksheets of existing home and community-based settings compliance
- Reviewed and discussed CMS guidance on the heightened scrutiny process

# Workgroup Activities

- Community Information Workgroup
  - Outreach documents posted
    - Fact Sheet: Home and Community-Based Settings Rule
    - Frequently Asked Questions (FAQs): Federal Home and Community-Based Services Rules
    - Medi-Cal Funding of Developmental Services in California
- Discussion: Suggestions for outreach and educational activities

# Workgroup Activities

- Assessment Workgroup
  - Assessed laws and regulations
  - DHCS published in the Statewide Transition Plan Systemic Assessment Summary
- Discussion of workgroup tasks

# DHCS Status Updates

- Rebecca Schupp, Long-Term Care Division Chief, Department of Health Care Services
  - Statewide Transition Plan
  - Provider Self-Survey and On-Site Assessment Tools
  - Consumer Survey

# Review of CMS Presentation

“Assessment of State Systems for Compliance with the Home and Community-Based Settings Rule”

1. Assessment of components
2. Assessment of individual settings
3. Validation of assessments
4. Sorting settings
5. Remediation

# CMS Guidance

## **Step one: Assessment of components**

- Review rules, regulations, policy

# CMS Guidance

## **Step two: Assessment of individual settings**

- “States may also administer surveys to providers to determine whether the settings in which those providers operate meet the home and community-based settings requirements.” (Toolkit)

# CMS Guidance

- Surveys should include each element of the rule
- Providers must submit evidence to document compliance
- Providers must complete surveys for each setting they operate

# CMS Guidance

## **Step three: Validation of assessments**

- May conduct specific site evaluations
- Perform on-site assessments of a statistically significant sample of settings
  - Site visit records need to have same identifier as provider self-assessment
  - Site visit interviews or documents should include same or similar questions as surveys and assessments

# CMS Guidance

Consumer surveys should

- Cover the same elements, even if the questions are worded more simply
- Have the same identifier as the provider's settings identifier so they can be matched to validate the provider's assessment
- Be conducted within more or less the same time frame as the provider self-assessment

# CMS Guidance

## **Step four: Sorting settings**

Must provide best estimate of the number of settings that:

- Fully align
- Do not comply and will require modifications
- Are presumptively non-home and community-based but for which justification or evidence will be provided (through the heightened scrutiny process)
- Cannot meet the Federal requirements and will require relocation of individuals

# CMS Guidance

## **Step five: Remediation**

Without a complete settings assessment, states cannot:

- Identify which settings are in compliance or could transition to compliance
- Provide specific remedial actions
- Identify settings that are presumed institutional in nature
- Submit evidence for heightened scrutiny

# CMS Guidance

**Heightened Scrutiny** is a process to document compliance with the federal rules

Heightened Scrutiny is not a waiver of, or exemption to, the federal requirements

# CMS Guidance – Heightened Scrutiny

- Must clearly lay out the process for identifying settings that are presumed to have institutional qualities
  - Settings located in a facility that provides inpatient institutional treatment
  - Settings on the grounds of, or immediately adjacent to, a public institution
  - Any other setting that has the effect of isolating individuals from the broader community

# CMS Guidance – Heightened Scrutiny

## Public notice requirements

- Be widely disseminated to consumers, families, and the community
- List settings by name and location
- Include any and all justifications
- Provide detail
- Post the notice, respond to public comments

# CMS Guidance – Heightened Scrutiny

Evidence that a setting has the qualities of a home and community-based setting should focus on:

- Qualities of the setting
- How it is integrated in and supports full access of individuals receiving home and community-based services
- Include information during the public input process

# Program Transition Plans

CMS strongly suggests

- Plans include separate and complete tables and deadlines for residential and non-residential settings. Each setting type will undergo an administrative and regulatory review, with individual settings receiving a provider self-assessment, and analysis and validation process.
- Plans clearly describe the program and include an extensive appendix of the specific regulatory citations for each program, and references to the requirements that need to be added or amended.

# Program Transition Plans

- For providers which do not fully meet the new requirements, states should include remediation strategies, including actions and associated time frames for bringing the programs/settings into compliance.
- If the state determines that a setting cannot meet the HCBS requirements by March 2019, it must describe the process for informing and transitioning the individuals involved to other compliant settings or settings not funded by Medicaid.

# Timeline

2015

- Distribute Provider Self-Surveys

2016

- Develop and submit Program Transition Plans for DD Waiver and 1915(i) State Plan Option
- Distribute Consumer Surveys
- Collect and analyze Provider and Consumer surveys
- Conduct sampling of on-site assessments

# Timeline

2017

- Identify providers needing Heightened Scrutiny
- Conduct Heightened Scrutiny activities
- Identify providers needing remediation
- Develop and implement remediation plans

2018

- Monitor remediation activities
- Conduct ongoing compliance monitoring