

New HCBS Regulations: Transition Plan Listening Sessions

Presentation by:



Background:

Key Points of the New HCBS Rules

- Defines, describes and aligns the home and community-based (HCBS) settings requirements across several types of waivers including all of Illinois' nine (9) 1915c waivers and is anticipated to apply to an 1115 waiver once approved
- Defines what is a home and community-based setting and applies this definition to:
 - Residential settings
 - Non-residential settings
 - An individual's private home or apartment is presumed to be an integrated setting
- Defines Person Centered Planning
 - Includes person-centered requirements which identify the strengths, preferences and needs in terms of clinical and support, as well as the desired outcomes of the individual.
 - Person Centered Planning is not to be part of the Statewide Transition Plan; Compliance with Person Centered Planning is to be included in all waiver renewals

Background:

Federal Requirements – Settings

- Defines Medicaid HCBS settings as they apply to **where waiver participants live and where they receive services**.
- Ensures that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community.
- Includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and **receive services in the community, to the same degree as individuals who do not receive HCBS.**
- The Statewide Transition Plan is to demonstrate our strategy to be in compliance with the rules as they relate to the setting where a person may live and where he/she may receive the services.
 - The strategy is a framework of a **process** towards compliance by **2019**.

Background: Final HCBS Regulations

- Regulations published in the Federal Register on January 16, 2014
- The Final Rule combined responses to public comments on two proposed rules published on April 15, 2011 and May 3, 2012
 - Rule became effective on **March 17, 2014**
 - States are now required to develop a Transition Plan to comply with new settings regulations by **March 17, 2015**
 - **Full compliance by March 17, 2019**

Background:

Settings that are NOT HCBS

- Nursing facility
- Nursing facility - Institutions for mental disease (IMD) including Specialized Mental Health Rehabilitation Facilities (SMHRF)
- Intermediate Care Facilities for individuals with Intellectual Disabilities
- Hospital
- Settings in a publicly or privately owned facility providing inpatient treatment
- Settings on the 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

The last three (3) above have particular relevance to the types of settings where a person may receive services

Highlights of the New Rules Relating to Settings

(Required in the Statewide Transition Plan)

- The individual is able to select from setting options, including non-disability specific settings and an option for a private unit in a residential setting
 - Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources
 - State does not need to guarantee that all settings have private units; only that there be informed choice
- CHOICE

Highlights of the New Rules - 2

- Individuals have rights of privacy, dignity, respect and freedom from coercion and restraint
- Settings should optimize individual's initiative, autonomy, and independence in making life choices
- Settings should facilitate individual choice regarding services, supports and who provides them

Highlights of the New Rules - 3

- The specific unit/dwelling is either owned, rented or occupied under a legally enforceable agreement
- The participant should have the same responsibilities/protections from eviction as all tenants under landlord tenant law applicable in the state, county, city or other designated jurisdiction
- If tenant laws do not apply, the state must ensure lease, residency agreement or other written agreement that address eviction protections and appeals processes comparable to the area's landlord tenant law

Highlights of the New Rules - 4

- Individuals have rights to privacy in their sleeping or living unit
- Units have lockable entrance doors with appropriate staff having keys to doors as needed
- Individuals who share a unit, have a choice of roommates
- Individuals have the freedom to furnish and decorate their sleeping or living units with the lease or other agreement
- Individuals have freedom and support to control their schedules and activities and have access to food at any time
- Individuals may have visitors at anytime
- Setting is physically accessible to the individual

Main Components of the Statewide Transition Plan

- Assessment Process: Include Illinois' activities to assess our settings AND our regulations, standards, policies, licensing requirements and other provider requirements to ensure settings comport with the Rules.
 - Assessment process includes provider surveys and on-site visits
 - Review of state statutes, rules and regulations that need to be examined for possible modification
- Remedial Strategy: Describes Illinois' actions to assure initial and on-going compliance with the HCBS regulations, with specific timeframes for identified actions and deliverables.
 - Strategy, again is the identification of a **process** defined in a timeline to reach compliance.

Informing the Statewide Transition Plan – Survey of Residential and Non-Residential Settings - *Assessment*

- Transition Plan describes our assessment methodology:
 - State agencies developed survey tools. The tools were sent by U.S. mail and e-mail to providers throughout the state
 - Survey questions were drawn from other states' surveys and a review of the CMS rules, and finalized by state staff and researchers from the University of IL at Springfield
 - Initial surveys were in two parts:
 - Questions for the agencies/management of the sites
 - Questions for each site
- UIS completing the data collection and analysis
- Data is being used to frame a process for addressing settings follow-up including site visits

Survey of Non-Residential Settings - *Assessment*

- Non-residential settings must meet the same “integration” criteria as settings that are residential in nature
- Similar process occurred as described regarding the Residential Surveys
- Similar process is planned to validate the survey results and develop remedial plans if required

Survey Questions

The following question was asked:

Which of the following best describes your setting:

- Physically connected to a hospital, nursing setting, institution for mental disease, or an intermediate care setting for individuals with intellectual disabilities.*
- Not physically connected but on the grounds or adjacent to a hospital, nursing setting, institution for mental disease, or an intermediate care setting for individuals with intellectual disabilities.*
- Not physically connected or adjacent hospital, nursing setting, institution for mental disease, or an intermediate care setting for individuals with intellectual disabilities.*

Focus of other questions

- Most of the survey questions fell into categories pertaining to *Levels of Autonomy and Frequency of Independent Behavior*
- Analysis of the data pertaining to Levels of Autonomy and Frequency of Independent Behavior were categorized into three groupings. These groupings are:
 - Completely meet expectations or full compliance
 - Partially meet expectations or appearing not to meet expectations, but may present evidence showing that they do have the qualities of HCBS
 - Do not meet expectations

Site visits to validate responses to survey questions

- Draft Transition Plan calls for:
 - Community agencies that self-identified as being connected to or on the grounds of an institutional setting will need immediate attention and an individualized plan developed to comply with the new regulations.
 - Obtaining consumer and family feedback as a component of the site visits, including the formation of focus groups and individualized surveys with key stakeholders in addition to meetings with consumer participants and their circle of support during site visits.
 - These qualitative methods will inform recommendations should the site fall under the “Heightened Scrutiny” category as described in the regulations.
- Validating survey results through the site visits will further inform the State as to the system wide changes that will need to be made to statutes, policies and procedures.

Settings Presumed Not to be HCBS

- If the state determines a setting to not be in compliance, it will need to submit evidence to federal CMS of a *heightened scrutiny* for these settings
- The Statewide Transition Plan should include evidence sufficient to:
 - Demonstrate the setting does not have the characteristics of an institution and
 - Meet the HCBS setting requirements
- *Illinois must have settings that are in compliance.*

What are your
suggestions and
concerns related to
Illinois' Draft
Transition Plan?



Send us your comments!

- **Web Portal**
 - Access at the HFS website; Medical Programs (tab); Home and Community Based Waivers (tab); New Federal Home and Community Based Services Final Rules and Plans for Compliance in all Illinois 1915 (c) Waivers (tab)
- **US Mail**
 - Illinois Department of Healthcare and Family Services, Attn.: Waiver Management, 201 South Grand Avenue, 2nd Floor East, Springfield, IL 62763
- **Call: (217) 557-1868**

This information may be found on flyer and in the Transition Plan that you may have seen prior to registering for this webinar.