



*Division of Medicaid & Medical Assistance*

# **THE HOME AND COMMUNITY-BASED SERVICES (HCBS) FINAL RULE AND DELAWARE'S TRANSITION PLAN**

**October 2015**

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# Background

- HCBS are community services like personal care and homemaker services that allow a person to stay in the community instead of an institution.
- Historically the following issues have been raised by advocates regarding HCBS programs nationwide:
  - Participants have not actively been involved in the person-centered plan process and development of person-centered service plan.
  - Person-centered service plans have not reflected the results of assessment process and are not updated to reflect changing needs.
  - Services provided in HCB settings appear more institutional in nature.
  - Participants have not been integrated into community to the fullest extent possible.
- CMS has attempted to address these issues for many years through policy.
- In January 2014, CMS published the **HCBS Final Rule (also referred to as "the Rule")**. The HCBS Final Rule is CMS' opportunity to address issues in a more formal manner and add more teeth to requirements.

# What are the Components of the HCBS Final Rule?

- Key components of the Rule:

Person-Centered  
Planning

Person-Centered  
Service Plan

HCBS Settings

State Transition Plan

# Components of the Rule: Person-Centered Planning

- The HCBS Final Rule enhances requirements of the person-centered planning process:
  - Emphasis on the important role of supporting members.
  - Member is the central, key component of the process.
  - Clear delineation and documentation about the process, choices offered, and decisions made.
  - Must specify individuals responsible for monitoring plan and progress towards identified goals.
- There are additional, specific requirements of the person-centered planning process contained in the Rule.

# Components of the Rule: Person-Centered Service Plan

- The HCBS Final Rule also specifies enhanced requirements of the person-centered service plan.
  - The person-centered service plan must be focused on the member's assessed needs;
  - The person-centered service plan is a document that must identify services and supports necessary to meet the member's needs, preferences, and quality of life goals;
  - All individuals involved in the planning process must receive a copy of the plan;
  - The plan must be written in first-person, singular language that is understandable to the HCBS member or their representative; and
  - The plan must include the signatures of everyone responsible for its implementation, including the HCBS member, the representative, and case manager.

# Components of the Rule: HCB Settings

- The HCBS Final Rule establishes requirements for home and community-based settings for persons participating in Medicaid HCBS programs:
  - Establishes an outcome-oriented definition that focuses on the nature and quality of individuals' experiences.
  - Maximizes opportunities for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting.
  - Defines HCB settings in greater detail than before.

# Components of the Rule: HCB Settings

- Settings that are **not** HCB:
  - Nursing Facilities (NF)
  - Institutions for mental diseases
  - Intermediate Care Facilities (ICF) for Persons with Intellectual Disabilities (ID)
  - Hospitals
- Settings **presumed not to be** HCB:
  - 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.

# Components of the Rule: HCB Settings

- All HCB settings must meet the following qualifications:
  - The setting is integrated in and supports full access to the greater community;
  - Is selected by the individual from among setting options;
  - Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
  - Optimizes autonomy and independence in making life choices;
  - Facilitates choice regarding services and who provides them;
  - The individual can have visitors at any time; and
  - The setting is physically accessible.
- Additional requirements of provider-owned settings.

# Components of the Rule: Transition Plan

- States will demonstrate compliance with the HCB settings requirements of the Rule through development of a transition plan.
- The transition plan must provide details regarding all activities a state will take to:
  - Demonstrate that all HCB settings are compliant with the Rule; and
  - Where issues are identified, the measures the State will take to address issues.
- On March 17, 2015, DMMA submitted a statewide transition plan to CMS. Delaware's Transition Plan will guide the State through HCBS Final Rule compliance between now and 2019.
- All states are expected to be fully compliant with the HCBS Final Rule by March 17, 2019.

# Delaware's Transition Plan

- The Transition Plan will be implemented in six phases to come into compliance with the Rule by March, 2019:

Phase 1  
Develop  
Surveys

Phase 2  
Implement  
Surveys

Phase 3  
Inventory  
Results

Phase 4  
Develop  
Remediation

Phases 5 and 6  
Implement Remediation  
and Monitor Compliance

April –  
July 2015

August 2015 –  
January 2016

February –  
March 2016

April –  
August 2016

September 2016 – March 2019

# Delaware's Transition Plan

- Delaware will use surveys to assess the current system.

## State Self-Assessment

Codes, laws, regulations, training materials, etc.

## Provider Survey

HCBS Policy and Settings Survey

Look-Behind

## Member Survey

HCBS Settings/ Services Survey

## MCO Survey

HCBS Policy/ Procedures/ Trainings Survey

# Where We Are Today and Next Steps

- We have worked to increase awareness of the Rule and our Transition Plan through a new website, a social media campaign, and presentations to stakeholders.
- We have completed the State self-assessment and are in the process of implementing the provider, member, and MCO surveys.
- We have solicited public feedback on an updated version of the Transition Plan. Updates include revised dates for implementation activities and the results of the State self-assessment.
- Over the coming months, DMMA will also:
  - Continue to update the public on the status of implementation via Transition Plan website, listserv, social media, meetings, etc.;
  - Update the Transition Plan to reflect the status of implementation including results of provider, member and MCO surveys;
  - Post the updated versions of the Transition Plan for feedback; and
  - Respond to public comments.

# Additional Resources

- To learn more about the Transition Plan, visit our webpage on the DMMA website: [http://dhss.delaware.gov/dhss/dmma/hcbs\\_trans\\_plan.html](http://dhss.delaware.gov/dhss/dmma/hcbs_trans_plan.html).
- You can follow our updates on Facebook at <https://www.facebook.com/DelawareDHSS>.
- You can follow us on Twitter at @Delaware\_DHSS.
- If you have additional questions, you can always send an email to our dedicated inbox: [dhss\\_hcbstransition@state.de.us](mailto:dhss_hcbstransition@state.de.us)