

Home and Community Based Settings (HCBS): Final Rule

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OVERVIEW OF NON-RESIDENTIAL SERVICE SETTING REQUIREMENTS AND INITIAL GAPS IN COMPLIANCE

**HCBS FINAL RULE
JANUARY 14, 2015**

**NOTE: THIS MEETING WILL BE TAPE RECORDED AND THE
RECORDING WILL BE POSTED TO THE HCBS WEBPAGE**

CMS HCBS Final Rule Name

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Published in the Federal Register on January 16, 2014,
effective March 17, 2014

Title:

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); Final Rule

Who Does this Rule Impact?

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The new CMS HCBS rule impacts

- Participants receiving HCBS services
- Medicaid providers providing HCBS services
- People involved in developing HCBS service plans

Providers will be required to comply with the new guidelines in order to continue receiving payment for Medicaid Waiver, State Plan PCS, and State Plan DD participants.

Topics for Today's Meeting

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Today we will:

- Review the new requirements for non-residential settings where home and community based services (HCBS) are provided.
- Describe the steps the State will take to complete an assessment of non-residential service settings.
- Summarize the initial gaps and plans for remediation Idaho Medicaid intends to take to strengthen compliance where needed.
- Solicit your thoughts and/or questions.

Summary of the Non-Residential Setting Requirements

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Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate based on the needs of the individual as indicated in their person-centered service plan:

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings,
 - ✦ engage in community life,
 - ✦ control personal resources,
 - ✦ and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

Summary of the Non-Residential Setting Requirements cont.

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- 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.
 - ✦ The setting options are identified and documented in the person-centered service plan and are based on the individual's needs preferences, and, for residential settings, resources available for room and board.

Summary of the Non-Residential Setting Requirements cont.

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- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimizes but does not regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- Facilitates individual choice regarding services and supports, and who provides them.

Can These be Modified or Changed?

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No. The requirements for the non-residential settings where HCBS services are offered can not be modified or changed.

If it is determined a setting does not meet HCBS setting requirements, participants will be notified and, if necessary, will be provided with assistance in finding alternative service settings.

Steps in the Assessment Process

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1. Gap Analysis - review of existing rules and process (described in more detail on the next slide)
2. Non – residential provider meetings (February – April 2015) to discuss setting requirements and solicit input
3. Rule promulgation for changes to IDAPA in 2016
4. Provider toolkit and provider trainings are developed and shared.
5. Rules approved by legislature expected to go into effect July, 2016
6. Initial assessment for rule compliance will begin.

Description of Gap Analysis Process

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Areas reviewed:

- Idaho Rule
- Service definitions
- Licensing and certification requirements
- Provider agreements
- Provider qualifications
- Individual plan monitoring requirements
- Utilization review practices
- Provider monitoring/participant outcomes

Areas reviewed:

- Provider reporting
- Performance outcome measurement/outcome reviews etc.
- Person centered planning requirements and documentation
- Training requirements
- Waiver and state plan language
- Operational protocols

Services Without a Detailed Analysis

- Several service categories from Idaho's 1915(c) and State Plan 1915(i) programs did not have gaps related to HCB setting requirements. The state has determined that many of our HCBS services are highly medical/clinical in nature, self-directed, for the purchase of goods/adaptations or provided by providers who have no capacity to influence setting qualities. Therefore, for these services, a detailed analysis was not necessary.

Service Settings To Be Discussed Today

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A gap analysis for services and settings where the following services are offered :

- Developmental Therapy
- Adult Day Health
- Community Crisis
- Supported Employment
- Residential Habilitation – Supported Living
- Day Habilitation
- Habilitative Supports
- Habilitative Intervention

Approach for Today's Presentation

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Due to the cumbersome nature of the analysis for each of the settings where the eight services are offered, today we will review only the four recommendations made in the gap analysis.

The specific gaps/remediation plan by service type will be included in the next version of the Statewide Transition Plan to be posted on the HCBS webpage beginning later this month.

Changes to be Made to Support Compliance

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Gap: For several requirements, existing quality assurance and monitoring activities were found to be insufficient to capture the new requirements.

Remediation: Medicaid will enhance existing quality assurance/monitoring activities and data collection for monitoring.

Changes cont.

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Gap: For several requirements, the state lacks sufficient regulatory support to enforce the new HCBS requirement

Remediation: Medicaid will initiate the rule promulgation process to recommend changes to IDAPA 16.03.10.

Changes cont.

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Gap: For several requirements, the state lacks standards for “the same degree of access as individuals not receiving Medicaid HCBS.”

Remediation: Develop standards around “to the same degree of access as individuals not receiving Medicaid HCBS.”

Changes cont.

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Gap: For congregate settings, the state feels it may be challenging for providers to know how to meet integration requirements and difficult for the state to know how to assess and monitor for integration.

Remediation: Develop standards on integration for congregate settings.

So is the assessment now complete?

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No.

This gap analysis is step one in the assessment process.

Once rules are passed in 2016, additional assessment activities will be initiated.

Monitoring will be ongoing after that.

What's Next?

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- The Transition Plan with the timeline for all activities will be posted January 23 – Feb. 22 at www.HCBS.dhw.idaho.gov; you are encouraged to review and to submit comment.
- Medicaid will continue outreach efforts and trainings with providers on the new requirements beginning in February.
- The Transition Plan will be submitted to CMS for approval in March, 2015

How to Comment on the Draft Transition Plan

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- The draft Transition Plan will be posted at www.HCBS.dhw.idaho.gov January 23 – February 22. There you will see an option to email your comments to the program.
- Hard copies of the Transition Plan will be provided in all Regional Medicaid offices and in Central Office for review.
- A toll free phone line will be set up beginning January 23rd for receiving comments: Call 1-(855) 249-5024.
- You may email comments on the Transition Plan directly to the program at: HCBSSettings@dhw.idaho.gov

How to Comment on the Draft Transition Plan cont.

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Written comments can also be sent to:

HCBS

Division of Medicaid

P.O. Box 83720

Boise, ID 83720-0009

FYI: Important Resource

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CMS has published fact sheets, webinars and regulatory guidance at the following website:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

It has everything and anything CMS has available on the new regulations.

QUESTIONS or Comments?