

Home and Community Based Settings: Final Rule

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OVERVIEW OF THE CMS PERSON CENTERED PLANNING REQUIREMENTS

APRIL 17, 2015

Webinar Topics Today

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- Intent of the rule
- Overview of person-centered planning, documentation and review requirements
- Next steps

Wherever you see this logo on a slide it means we are using language taken directly from CMS materials.



CMS HCBS Final Rule Title

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Published in the Federal Register on 01/16/2014

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)

Intent of the Final Rule

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1. 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
2. To enhance the quality of HCBS and provide protections to participants

Intent of the Person-Centered Planning Requirements

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1. To codify guidelines for person-centered planning for 1915(c) and 1915(i) programs, including the:
 - ✦ Person-centered planning process
 - ✦ Person-centered service plan documentation
 - ✦ Review of the person-centered service plan
2. To ensure that any modifications which impact the HCBS characteristics of a setting are documented according to specific criteria set forth in the regulations and monitored appropriately.

Requirements for the PCP process: It must-

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1. Be driven by the individual
2. Include people chosen by the individual
3. Provide necessary information and support to the individual to ensure that the individual directs the process to the maximum extent possible
4. Be timely and occur at times and locations of convenience to the individual
5. Reflect cultural considerations, use plain language and be conducted in a manner that is accessible to individuals w/disabilities and persons who are limited English proficient

PCP Process requirements, cont'd.

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6. Include strategies for solving disagreement within the process and prohibit providers of HCBS from furnishing case management to avoid conflict-of-interest issues
7. Offer informed choices to the individual regarding services and supports the individual receives and from whom
8. Provide a method to request updates to the plan as needed
9. Record alternative HCB settings that were considered by the individual

The Plan itself must -

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reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

Service Plan Documentation

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The written plan of service must:

1. Reflect that the setting in which the person resides is chosen by the individual and meets HCBS requirements.
2. Reflect the individual's strengths and preferences.
3. Reflect clinical and support needs as identified through an assessment of functional need.
4. Include individually identified goals and outcomes.
5. Reflect the services and supports (both paid, and unpaid) that will assist the individual to achieve identified goals.
6. Reflect risk factors and measures in place to minimize them.

Person-Centered Service Plan, cont'd.

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7. Be understandable to the participant, written in plain language and in an accessible format.
8. Identify the individual or entity responsible for monitoring the plan.
9. Be finalized and agreed upon, with the informed consent of the participant in writing, and signed by all individuals and providers responsible for its implementation.
10. Be distributed to the individual and others involved in implementing the service plan.
11. Include those services which the individual elects to self-direct.
12. Prevent the provision of unnecessary services and supports.

Modifications to the HCBS Setting Requirements

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- The written service plan must also address any modifications to the HCBS setting requirements described in the final rule.
- Any modification must be justified and documented in the service plan following CMS requirements for doing so.

NOTE: Only **some** of the setting requirements may be modified, others may not:



These Requirements May NOT Be Modified

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.
- 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.
- 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.

These May be Modified

In a provider-owned or controlled residential setting, in addition to the above qualities the following additional conditions must be met:

- The unit or dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the State, county, city or other designated entity.
 - For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.
- Each individual has privacy in their sleeping or living unit:
 - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors as needed.
 - Individuals sharing units have a choice of roommates in that setting.
 - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Individuals are able to have visitors of their choosing at any time.
- The setting is physically accessible to the individual.

How are modifications to be made?

To make a modification to a setting requirement the service plan must:

1. Identify a specific and individualized assessed need.
2. Document the positive interventions and supports used prior to any modifications to the person-centered service plan.
3. Document less intrusive methods of meeting the need that have been tried but did not work.
4. Include a clear description of the condition that is directly proportionate to the specific assessed need.

Modification process cont'd.

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6. Include a plan for regular collection and review of data to measure the ongoing effectiveness of the modification.
7. Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated
8. Include informed consent of the individual
9. Include an assurance that the interventions and supports will cause no harm to the individual.

Review of the Person-Centered Service Plan

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Final Requirement:

The person-centered service plan must be reviewed, and revised upon reassessment of functional need, at least every 12 months, when the participant's circumstances or needs change significantly, or at the request of the individual.

What are the current gaps?

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You know as well as anyone where there are gaps in our current processes and documentation. We will not review the project's gap analysis results here.

The team has looked at:

- A&D and State Plan PCS
- Children's DD
- Adult DD
- 1915i DD Services

What's Next?

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- Rules will be promulgated to support these requirements in 2016
- In the interim work to come into compliance is well under way with Children's DD
- What is needed now is to identify someone from operations for A&D and someone from operations from Adult DD who can be the lead/primary contact to work with the project team to come up with the plan for compliance and monitoring.
- Once contacts are established we will discuss the gaps in compliance and how the operational team will address them.

QUESTIONS?

Resources

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The project team has established a webpage at:

www.HCBS.dhw.idaho.gov

There you will find a link to the rule, a link to the CMS website tied to this effort as well as a copy of the work tied to coming into compliance with the setting requirements.