

Negotiated Rulemaking - Comment Summary DOCKET NO. 16-0310-1501 and 16-0313-1501

Verbal Comments from June 26, 2015, Written Comments Submitted Post-Meeting, and Responses

Verbal and written comments were submitted by the following individuals/organizations: A&R Case Management; Jeanifer Bigler; Kathi Brink; Ryan Brown; the Center for Independent Living; Elva Decker; Division of Family and Community Services; Stacy Gunnerson; Wendy Kotts; Kelly Lawrence; Corey Makizuru; Randy Nilson; Cecilia Rodriguez; Carla Schafer; Joyce Stroud; WDB Inc; Sharla Wilson; Unity Service Coordination

Comments		Responses	
W-Written V-Verbal	Home and Community Based Settings and Setting Requirements		Policy Change
V	Clarify that HCBS rules do not supersede restrictions placed on the participant by the Social Security Administration or the courts.	Medicaid agrees that the wording can be improved for clarity.	Clarification has been incorporated into rule language.
V	Describe any differences there may be for services delivered in an agency vs services delivered in the home of the participant.	Medicaid will incorporate clarification regarding services delivered in an agency setting versus a participant's home.	Clarification has been incorporated into rule language.
V	Define when/if restraints can be used	The appropriate use of restraints is described in existing program-specific rule. Informed participant consent and Department approval will continue to be required prior to the use of restraints in non-emergency situations.	Clarification has been incorporated into rule language.
V/W	Clarify what service types participants will have choice of agency and which the participant will have choice of individual staff	The expectation is that the agency have processes in place to maximize participant choice with staffing as well as mechanisms for the participant to report and address staffing issues/concerns and if the participant wants a change in staff.	Clarification regarding participant choice of provider and/or staff within an agency has been incorporated into rule language.
W	Participant Rights. The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Comment: I fully agree.	We appreciate the commenter's support	No policy change required

<p>W</p>	<p>As the Department explores the directive that people with disabilities have the same opportunities for integration, independence, choice and rights as individuals without disabilities, individuals with or without disabilities share the paradigm. Due to medical, physical, and financial limitations or resources, there aren't infinite opportunities for integration, independence, choice and rights.</p> <p>Examples: Someone without a car may not be able to travel anywhere he wishes to travel. Someone without money will not be able to purchase whatever he wants to purchase.</p>	<p>We agree with the commenter that an individual's financial resources may impact the options and choices available to that individual. We acknowledge that participant's economic situations vary.</p>	<p>No policy change required</p>
<p>W</p>	<p>As the Department explores the directive that the setting optimizes individual initiative, autonomy, and independence in making life choices, where does the provider's liability fit? Will the provider be responsible for choices that the individual makes?</p>	<p>Safeguards are built into the HCBS regulations to allow an individual's right to have choices and to experience the outcomes of those choices.</p> <p>Reducing risk for individuals receiving Medicaid HCBS should not involve abridgement of their independence, freedom, and choice unnecessarily.</p> <p>Restricting independence or access to resources is appropriate only to reduce specific risks. If a provider is aware of risks to the participant's health or safety, or the safety of the community, the provider is responsible for ensuring safeguards are implemented to reduce the risk and are reflected in the person centered service plan.</p>	<p>No policy change required</p>
<p>W</p>	<p>Typically "with whom to interact" revolves around two consenting individuals. If an individual wishes to interact with someone, but that someone does not want any contact, how do you proceed?</p>	<p>Medicaid acknowledges that individuals cannot be forced to "interact."</p> <p>This scenario provides an opportunity for the provider to assist the participant in understanding a dynamic about relationships that is true for all people, with or without disabilities.</p>	<p>No policy change required</p>
<p>W</p>	<p>An additional subsection should be added to spell out exceptions to these requirements, such as legal guardianship or court-imposed restrictions.</p>	<p>Medicaid agrees that the wording can be improved for clarity.</p>	<p>Clarification has been incorporated into rule language.</p>

W	As the Department explores rule, I would caution applying the rule too prescriptively with providing opportunities for the individual to choose “who provides them” with the service. I fully support providing opportunities for individuals to choose his service provider agency rather than the specific person (employee) within the service provider agency. Individuals with or without disabilities cannot always choose the specific person.	The expectation is that agencies have processes in place to maximize each participant’s choice with staffing. Agencies must identify mechanisms for the participant to report and address staffing issues or concerns and a method for the participant to request a change in staff, if desired. Medicaid will incorporate clarification regarding services delivered in an agency setting versus a participant’s home.	Clarification regarding participant choice of staff within an agency has been incorporated into the rules.
W	Include an additional section “to address Residential Habilitation specifically to line out the training areas directed to increasing the individual’s independence in the area of management of money, and other such topics that would apply to those served under the HCBS Waiver in the State of Idaho.”	The HCBS requirements apply to all settings where HCBS are delivered; therefore service-specific guidance will not be included in the general HCBS rules. Service and supports that can be furnished through Residential Habilitation are identified in existing program-specific rule.	Training areas are in existing rule therefore we do not believe the suggested rule change is necessary.
W	The rules should clarify the definition of “the most integrated setting.”	We do not believe “the most integrated setting” can be defined in a way that captures the experience of every individual in every service setting. By not prescribing a minimum definition, providers have flexibility to meet a participant’s needs as outlined in the person centered planning process.	We feel we have been as clear and precise as possible in describing the characteristics of settings and outcomes that providers should work towards achieving. We do not believe minimum definitions are necessary.
W	The state must expand integrated opportunities for each group of persons who are unnecessarily segregated.	At this time, Idaho Medicaid does not anticipate it will be necessary to add or change the current benefits that are available under the HCBS programs. Medicaid believes that the HCBS requirements may be met within the existing service delivery model and benefit packages available.	We do not believe a change to the state’s current benefit package or additional rule change is necessary.
W	“Full access” must reflect age, income, and status of the participant’s individual circumstances.	We agree with the commenter that an individual’s age, income and status may impact the options and choices available to that individual. We acknowledge that participant situations vary.	No policy change required

<p>W</p>	<p>Regarding choice, the Aged and Disabled waiver program “currently offer[s] only: Personal Care Services/Homemaker Services or Home Delivered Meals and participants are told that they must choose one or the other. No other HCBS services are offered as options.”</p>	<p>The Aged and Disabled waiver program has benefit choices available that are based on the assessed needs of the individual.</p> <p>Individuals are able to select from among the options for which they are eligible.</p> <p>Idaho Medicaid believes that the addition of new services to the benefit package is not necessary to meet the new regulations.</p> <p>Idaho Medicaid will focus on ensuring that available services meet the requirements.</p>	<p>We do not believe a change to the state’s current benefit package or additional rule change is necessary.</p>
<p>W</p>	<p>“The Regional Medicaid Services Nurse Reviewers involved in the functional assessment [for Aged and Disabled waiver and State Plan Personal Care Services] are not knowledgeable about the range of supports and services available in the community, nor are they involved in the development of a service plan through a person-centered planning process.”</p>	<p>Idaho Medicaid will work to align this process with the person-centered planning requirements described in the draft rules.</p>	<p>No policy change required</p>
<p>W</p>	<p>These rules should be reviewed with MPIU pertaining to the enforcement of the standards by MPIU and IDHW. Also, IDHW and MPIU should ensure that the minimum standards for each rule are identified prior to the implementation of the regulations.</p>	<p>Medicaid rule promulgation is conducted via a public process.</p> <p>The Medicaid Program Integrity Unit (MPIU), as well as other internal stakeholders, have had the opportunity to review rule drafts and make comment.</p>	<p>No policy change required</p>
<p>W</p>	<p>In the statement “this includes opportunities to seek employment”, what does “seek” mean? What are the providers’ responsibilities to ensure that the participants actually do some “seeking”?</p>	<p>The choice to seek employment opportunities belongs to the participant through the person centered planning process. The expectation is that service providers support chosen activities as much as possible.</p> <p>While an individual cannot be forced to seek employment, providers of HCBS may not impose arbitrary barriers to doing so.</p>	<p>We do not believe that additional definition of “seek” is necessary.</p>

<p style="text-align: center;">W</p>	<p>What does it mean to “work in competitive integrated settings? What is the minimum compliance standard for providers to support this?</p>	<p>Competitive-integrated employment is a current standard for Medicaid funded Supported Employment services.</p> <p>Competitive-integrated settings are those where the participant earns at least minimum wage and where the applicant interacts with non-disabled persons, excluding service providers, to the same extent that a non-disabled worker in a comparable position found in the community typically interacts with others.</p> <p>Providers of HCBS may not impose arbitrary barriers to participants accessing competitive integrated work settings.</p>	<p>We do not believe that additional definition of competitive integrated settings is necessary.</p>
<p style="text-align: center;">W</p>	<p>What is the minimum compliance standard for a provider:</p> <ul style="list-style-type: none"> • to ensure the participant actually “engages” in community life? What will be expected as evidence that this occurred? • to ensure the participant “controls” their personal resources? • to demonstrate that the settings include “non-disability” settings? If settings are selected by the participant, what is expected of the provider if the participant’s preferences are incompatible with his/her needs? • to demonstrate that the setting “optimizes” but does not “regiment” the autonomy and independence of the participant? • to demonstrate compliance if the individual initiative is maladaptive? • to show that “individual initiative, autonomy, and independence in making life choices, including but not limited to daily activities, physical environment, and with whom to interact” have been fulfilled? • to demonstrate the setting “facilitates opportunities”? 	<p>We appreciate the commenters’ desires for more specific, minimum standards in rule. However we believe that highly specific, closed-ended parameters are limiting to the participant and often prove ineffective in addressing an individual’s changing needs.</p> <p>Based on stakeholder feedback prior to drafting rules we have chosen to be somewhat less prescriptive in rule. In order to offer providers flexibility, our focus is on the critical role of person-centered service planning and evaluating whether or not a particular setting produces desirable outcomes that are associated with independence, control, daily routines, privacy and community integration.</p> <p>Providers will be required to indicate how they will demonstrate compliance with these requirements in their policies and procedures.</p>	<p>We feel we have been as clear and precise as possible in describing the characteristics of settings and outcomes that providers should work towards achieving. We do not believe minimum standards are necessary.</p>

<p>W</p>	<p>Will the requirement for “participant rights” be universally in place for all DD waiver service and consistently recognized in all IDHW reviews including MPIU audits?</p>	<p>Yes, the participant rights requirement applies to all Home and Community Based Service providers. As indicated in the state’s transition plan, Medicaid has worked in collaboration with Licensing and Certification to develop an assessment and monitoring process.</p> <p>It is our goal to have consistent application of the rules across Licensing and Certification, Medicaid Program Integrity Unit, Bureau of Long Term Care, Bureau of Developmental Disabilities and Family and Community Services. Medicaid has dedicated specific resources to meet this goal.</p>	<p>No policy change required</p>
<p>W</p>	<p>Recommend adding additional language to better capture children or those under the age of 18. (Section 001)</p> <p>Recommend striking out “older adults” from defined population.</p>	<p>The population described as “older adults and people with disabilities” is inclusive of children with disabilities.</p> <p>Idaho’s HCBS programs serve both people with disabilities and older adults.</p>	<p>We do not believe that it is necessary to change the definition of the population served by HCBS.</p>
<p>W</p>	<p>Recommend separating this into two sections. (Section 002)</p> <p>i.e. 002. Home and community based setting include all locations where participants who receive HCBS live or receive their services.</p> <p>003. Home and community based settings do not include the following:</p>	<p>Medicaid agrees that the wording can be improved for clarity.</p>	<p>Clarification has been incorporated into rule language.</p>
<p>W</p>	<p>Suggest adding/modifying language that would be more applicable to those with a parent/legal guardian. This could include...”selected by the individual or their parent/legal guardian”.</p> <p>For those under the age of 18, the parent or legal guardian would select the setting. (003.02)</p>	<p>Medicaid agrees that the rule language can incorporate clarification regarding parents/legal guardians of minor children.</p>	<p>Clarification has been incorporated into rule language.</p>
<p>W</p>	<p>The right to privacy does not save a provider from having to provide evidence of service provision in order to bill a service.</p>	<p>Medicaid agrees with this comment.</p>	<p>No policy change required</p>

	<p>Recommend separating this into two sentences, and identifying that employment, integrated work settings and personal resources may not be applicable to those under the age of 18.</p> <p>i.e. The setting is integrated in and supports full access of individuals receiving HCBS to the greater community, engage in community life and receive services in the community.</p> <p>This includes opportunities to seek employment and work in competitive integrated setting and control personal resources.</p> <p>Seeking employment, working in competitive integrated settings, and controlling personal resources could apply to some individuals who access HCBS services under the Children’s DD services, but not all.</p> <p>How would this proposed rule be demonstrated for those not old enough to work or control their own personal resources?</p>	<p>Medicaid agrees that the wording can be improved for clarity.</p>	<p>Clarification has been incorporated into rule language.</p>
Residential Setting Requirements and Modifications			
V	<p>Have standardized forms and process for modifications of residential requirements and updating current service plans to support the documentation of the modifications.</p>	<p>Medicaid agrees with this comment and will work to develop standardized templates, tools, and forms where possible for stakeholder use.</p>	<p>No policy change required</p>
W	<p>It is not feasible to meeting the residential setting requirements for individuals with memory, behavioral, or other cognitive impairments.</p>	<p>Residential setting requirements may be modified through the person-centered planning process, as described in section 005 of the draft rules.</p> <p>In the absence of a justified and documented need, the requirements must be met.</p>	<p>The existing draft rule describes how modifications can be made to the setting requirements based on assessed need through the person centered planning process therefore we do not believe rule change is necessary.</p>
W	<p>With regards to the Modifications, will the Service Plan have to be submitted to the Department for approval every time there is a change to the plan? This will require time and resources.</p>	<p>The operational process for modifying the residential setting requirement will be program-specific. Training and informational material on this process will be furnished to providers.</p>	<p>Program-specific rule sections have been modified where applicable.</p>

<p>W</p>	<p>“Can we have visiting rules if we cannot have visiting hours?”</p>	<p>Medicaid does not see a difference between these two restrictions; this type of restriction is not allowed in the absence of a justified and documented assessed need.</p> <p>HCBS regulations are in place to support the rights and choices of individuals receiving HCBS.</p> <p>As indicated above, modifications may be addressed through the person-centered planning process.</p>	<p>The existing draft rule describes how modifications can be made to the setting requirements based on assessed need through the person centered planning process therefore we do not believe rule change is necessary.</p>
<p>W</p>	<p>Providing access to food 24 hours a day could be very expensive. What about people who stockpile or hoard food in their rooms? We do not have self-serve kitchens.</p>	<p>The draft rules do not mandate that providers provide food 24 hours a day. The rule indicates that providers must not prevent a participant from having access to food.</p> <p>As indicated above, modifications may be addressed through the person-centered planning process.</p>	<p>We feel we have been as clear and precise as possible in describing the characteristics of settings and outcomes that providers should work towards achieving. We do not believe changes to rule language is necessary.</p>
<p>W</p>	<p>“It is not feasible for the resident to have total control of who their roommate would be, we always talk to residents about the new roommate and take into consideration what if any complaints that they may have.”</p>	<p>Medicaid acknowledges that participant’s situations vary. Regardless of an individual’s disability or living situation, participants should have the opportunity to express their needs and preferences which are honored by their selected provider.</p> <p>It is understood that an individual’s resources may require that they have a roommate in a particular residential setting. However, it is expected that the provider have in place policies and procedures for respecting individual choice and for resolving complaints or disputes.</p>	<p>We feel we have been as clear and precise as possible in describing the characteristics of settings and outcomes that providers should work towards achieving. We do not believe changes to rule language is necessary.</p>
<p>W</p>	<p>Regarding “Residential Provider Owned or Controlled Setting Qualities; the “must” included in this rule creates zero flexibility.</p>	<p>Residential setting requirements may be modified through the person-centered planning process, as described in section 005 of the draft rules.</p> <p>In the absence of a justified and documented need, the requirements must be met.</p>	<p>The existing draft rule describes how modifications can be made to the setting requirements based on assessed need through the person centered planning process therefore we do not believe rule change is necessary.</p>

<p>W</p>	<p>Does “jurisdiction” mean it depends on the local community where the participant lives?</p>	<p>Medicaid agrees that the wording can be improved for clarity. The term “jurisdiction” is being removed to improve clarity.</p> <p>The requirement is that the lease, residency agreement or other form of written agreement in place for HCBS participants must allow for comparable protections as those available under Idaho landlord tenant law.</p>	<p>The term “jurisdiction” is being removed to improve clarity</p>
<p>W</p>	<p>The rule requirements listed as #12 seem like they should be listed in Section 004 as they apply to the earlier rules.</p>	<p>These requirements apply to the person-centered planning process, not the qualities of provider-owned or controlled residential settings.</p>	<p>We do not believe these rules need to be relocated.</p>
<p>W</p>	<p>Who decides on residential settings if they are based on need, preferences and resources? What if the provider disagrees with this decision?</p>	<p>The individual, along with their person centered planning team select the participant’s residential setting.</p> <p>If the provider is unable to meet the needs of the individual, the individual can select a different provider.</p>	<p>We feel that rules is clear regarding who selects residential settings. We do not believe changes to rule language is necessary.</p>
<p>W</p>	<p>What is expected of providers if, while engaging in “private” activities, the participant engages in dangerous or maladaptive behavior? If the participant has mobility issues and cannot lock or unlock entrance doors?</p>	<p>Safeguards are built into the HCBS regulations to allow an individual’s right to have choices and to experience the outcomes of those choices.</p> <p>Reducing risk for individuals receiving Medicaid HCBS should not involve abridgement of their independence, freedom, and choice.</p> <p>Restricting independence or access to resources is appropriate only to reduce specific risks. If a provider is aware of risks to the participant’s health or safety, or the safety of the community, the provider is responsible for ensuring safeguards are implemented to reduce the risk and are reflected in the person centered service plan.</p>	<p>No policy change required</p>

<p style="text-align: center;">W</p>	<p>What is the minimum compliance expectation of providers:</p> <ul style="list-style-type: none"> • to demonstrate that the participants have “privacy”? • to demonstrate that only the “appropriate” staff has keys? • to demonstrate that the participant had a choice of roommates? What if the guardian’s and participant’s choices differ? • to demonstrate that the participant has the freedom to furnish and decorate when the participant has chosen not to? • to demonstrate that the participant control their own schedules and activities? • to demonstrate that the setting is physically accessible? • to demonstrate that a specific and individualized assessed need was conducted related to modifications? Is there a requirement for a formal assessment for every single modification? • to demonstrate that the “positive” interventions were used “prior to any modifications” to the plan? • to demonstrate compliance that “less intrusive methods” were attempted and didn’t work? • to produce evidence of their methodology for proving an intervention is “directly proportionate to the specific assessed need”? • regarding demonstrating “effectiveness” of the modification? • regarding the content of the transition plan? • when “informed consent” is not granted by either the participant or guardian? to demonstrate that an “assurance” of causing no harm was provided? 	<p>We appreciate the commenters’ desires for more specific, minimum compliance expectations in rule. However we believe that highly specific, closed-ended parameters are limiting to the participant and can be detrimental to providers’ innovation in serving participants across the spectrum of service delivery.</p> <p>Based on stakeholder feedback prior to drafting rules we have chosen to be somewhat less prescriptive in rule in order to offer providers flexibility to meet participants’ needs. Providers will be required to indicate how they will demonstrate compliance with these requirements in their policies and procedures.</p>	<p>Clarification has been incorporated into rule language.</p>
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W	<p>Per Section 12 of these rules, in reference to options described in 005.03, what are the minimum compliance expectations of providers:</p> <ul style="list-style-type: none"> • if there are no “available” units? • if the plan, for reasons outside the provider’s control, does not include modifications? • Does the plan have to be modified prior to the modification? 	<p>Providers are not required to offer private units. Individuals should have an array of residential options to choose from in order to make a selection from the available settings that meet his needs, preferences and resources.</p> <p>If a provider is aware of risks to the participant’s health or safety, or the safety of the community, the provider is responsible for ensuring safeguards are implemented to reduce identified risks and are reflected in the person centered service plan.</p> <p>If the need for a modification is identified, the entity responsible for plan development must follow the process outlined in section 005 of the draft rules.</p> <p>The process for approval of plan modifications is program-specific and is contained in the program section of rules where applicable.</p>	<p>Program-specific rule sections have been modified where applicable.</p>
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Person-Centered Planning Requirements

W	<p>It will be problematic to meet these requirements if the individual is their own responsible party but has cognitive impairment.</p>	<p>Information and support should be given to the HCBS individual to maximize their ability to make informed choices and decisions</p> <p>If a participant does not have a court-appointed legal guardian, the individual must direct the planning process to the maximum extent possible, regardless of their disability.</p>	<p>We feel the rules are clear regarding person centered planning and the support necessary to assist the participant in making decisions to the best of their ability. We do not believe changes to rule language is necessary.</p>
W/V	<p>There are insufficient hours allocated for plan development to meet these requirements.</p>	<p>At this time, Idaho Medicaid does not anticipate it will be necessary to add or change the current benefit limitations for targeted service coordination to implement the HCBS rules.</p>	<p>No policy change required</p>
W/V	<p>The Aged and Disabled waiver program and State Plan Personal Care services do not include service coordination. Recommend PCS Case Management service be reinstated to perform part of these rules.</p>	<p>At this time, Idaho Medicaid does not anticipate it will be necessary to add or change the current benefits to implement the HCBS rules.</p>	<p>No policy change required</p>

<p>W</p>	<p>Person-centered planning requires an unbiased facilitator such as a service coordinator. While DD Waiver Services use person-centered planning, this process is not incorporated into the Family-Directed Services planning process or for individuals receiving A&D waiver services. I am concerned about the lack of monitoring that appears to be happening with person center planning.</p>	<p>The HCBS regulation does not use the language “unbiased facilitator”.</p> <p>The federal regulations require:</p> <ul style="list-style-type: none"> • that there are clear conflict of interest guidelines for team members participating in the person centered planning process and • that providers of HCBS for the individual, or those who are employed by a provider of HCBS for the individual, must not provide case management or develop the person-centered service plan <p>Currently, none of our HCBS programs including A&D and Consumer Directed Services (Family Directed and Self Directed) allow direct service providers of HCBS for the individual to also develop the person centered service plan.</p>	<p>Program-specific rule sections have been modified where applicable</p>
<p>W</p>	<p>Service coordinators should be the ones assisting participants in determining who needs a copy of their service plan and the ones responsible for distributing the copies to those identified.</p>	<p>The draft rules include how each impacted program will address the distribution of an individual’s service plan.</p> <p>The State acknowledges that each program will address the dissemination of plans slightly differently.</p> <p>However, all programs identify the decision of who receives a copy is initially determined with the involvement of the participant and /or the participant’s parent or legal guardian.</p> <p>Programs that will have entities other than the Department distribute the person centered plan will include this responsibility in the program specific rule sections.</p>	<p>Program-specific rule sections have been modified where applicable</p>

W	What safeguards are in place to ensure that the facilitator does not facilitate the wrong services if the participant is non-verbal or otherwise limited in age or function?	<p>The person-centered planning process includes family and other support individuals who are familiar with the individual's skills and challenges.</p> <p>The best safeguard against offering inappropriate services to an individual is to ensure the person-centered planning team represents the people most connected with the participant and want to support the participant in the achievement of his goals.</p>	No policy change required
W	Is there a dispute resolution process when there are disagreements about the plan that can't be finalized?	Currently, the adult DD program has rule that addresses dispute resolution within the planning process. The A&D program expects that providers responsible for plan development have policies and procedures in place addressing a dispute resolution process and the children's DD program has an internal dispute resolution process for Department case managers/contractors to follow.	We feel the dispute resolution process is already addressed within program-specific rule or bureau processes. No change is necessary.
W	Are there limitations to who can monitor the plan?	<p>The entities responsible for monitoring the plan and the limitations of who can perform this task vary from program to program.</p> <p>The plan must identify the individual or entity that is formally responsible so that the individual knows who to contact regarding issues with service delivery and plan development.</p>	No policy change required
W	References are made to "legal guardian" it is recommended that the rule include parent or legal guardian. (Section 006)	Medicaid agrees that the rule language can incorporate clarification regarding parents of minor children.	Clarification has been incorporated into rule language.
W	Recommend including a separate sentence or section that includes : "For children under the age of 18, the parent or legal guardian should have the decision making authority, with the child having a participatory role. For the Person Centered Plan the individual (currently identified as participant) is defined as a child under the age of eighteen (18)". (Section 006)	Medicaid agrees that the rule language can incorporate clarification regarding parents of minor children.	Clarification has been incorporated into rule language.
W	Add language to include the Plan of Services must be signed prior to the initiation of services identified on the plan. (Section 007.10)	As indicated in rule, each program will address plan signatures differently.	Program-specific rule language has been revised where applicable.

<p>W</p>	<p>Recommend removing Fiscal Employment Agent, as they are the entity that provides financial management services. This agency would not need to sign the plan. (Section 10.c.)</p>	<p>Medicaid sees the FEA as an integral party responsible for the implementation of consumer directed plans as they are required to process and pay for goods and services according to the plan.</p>	<p>We feel the FEA should be required to sign the plan and therefore do not believe changes to rule language is necessary</p>
<p>W</p>	<p>Recommend adding language to the following statement “Individuals involved with the person centered planning process should be invited by the participant” to include:</p> <p>Individuals involved with the person centered planning process should be invited in collaboration with the participant.</p> <p>Most participants do not physically do the inviting to the PCP meetings. The Plan developers work collaboratively with the participant to identify who to invite and in a majority of cases, the Plan Developer invites others to attend the Planning Meeting. (Section 006)</p>	<p>Medicaid agrees that the wording can be improved for clarity.</p>	<p>Clarification has been incorporated into rule language.</p>
<p>W</p>	<p>Recommend updating/modifying language (Section 007.10)</p> <p>a. Children’s DD service providers responsible for implementation of the plan including those identified in 16.03.10.663 and 16.03.10.683.</p> <p>FACS process outlines that all those identified on a child’s plan of service will need to sign the Plan of Service. If the proposed rule remains as is, only two Children’s DD services have implementation plans (Habilitative Intervention and Family Training). This would allow for 6 additional services and potential providers identified on the plan of service that would not be required by rule to have to sign the plan.</p> <p>The HCBS requirement identifies that the Person Centered Plan be signed by all individuals and providers responsible for it implementation.</p>	<p>Medicaid agrees that the wording can be improved for clarity within the children’s program.</p>	<p>Clarification has been incorporated into rule language.</p>

<p>W</p>	<p>Recommend changing language to align with 10.a. a. Children’s DD service providers responsible for implementation of the plan including those identified in 16.03.10.663 and 16.03.10.683.</p> <p>FACS process outlines that all those identified on a child’s plan of service will be distributed a copy of the Plan of Service. If the proposed rule remains as is, with the citation for 16.03.10.684.03, only two Children’s DD services have Implementation Plans (Habilitative Intervention and Family Training). As the rule currently is written, it would allow for 6 additional services and potential providers identified on a Plan of Service that would not be required by rule to have to sign the plan.</p> <p>16.03.10.665 is a Rule reference to Children’s HCBS State Plan Option Provider Qualifications and Duties. This rule citation is not applicable for this section.</p>	<p>Medicaid agrees that the wording can be improved for clarity within the children’s program.</p>	<p>Clarification has been incorporated into rule language.</p>
<p>W</p>	<p>Remove language “as designated by the family to receive a copy” as the HCBS requirement identifies that the Plan must be distributed to the individual and all other people involved in the plan. (Section 11.a.)</p>	<p>Medicaid agrees that the wording can be improved for clarity within the children’s program.</p>	<p>Clarification has been incorporated into rule language.</p>
<p>W</p>	<p>Recommend changing rule citation: (Section 11.c.) C. Consumer Direct service providers as defined in 16.03.13.010.05 and 16.03.10.010.15. Additionally, the participant will determine during the person centered planning process whether the service plan, in whole or in part should be distributed to any other community support workers or vendors.</p> <p>The Rule citation 16.03.13.010.05 is a definition for Family-Directed Community Supports. A program option for children eligible for the Children’s Developmental Disabilities (DD) Waiver and the Children’s Home and Community Based State Plan Option described in IDAPA 16.03.10.”Medicaid Enhanced Plan Benefits”. This citation does not seem applicable to this requirement and definition.</p>	<p>Medicaid agrees that the rule citation was incorrect and will be revised with the correct information.</p>	<p>Clarification has been incorporated into rule language.</p>

Additional Feedback

V/W	Additional resources for transportation should be allocated in order to accomplish community integration goals	At this time, Idaho Medicaid does not anticipate it will be necessary to add or change the current benefit package to implement the HCBS rules.	No policy change required
V/W	Have a single chapter of rules related to HCBS in order to minimize confusion and to streamline requirements. Providers and participants would benefit from this.	While the current rule promulgation timelines will not permit the culmination of a new chapter, Medicaid is planning to incorporate additional headings with the rule text to assist stakeholders with navigating through the different rule sections affected by the HCBS regulations.	No policy change required
W	Will Idaho Medicaid increase reimbursement for providers to comply with these requirements?	At this time, Idaho Medicaid does not anticipate it will be necessary to make changes to reimbursement to implement the HCBS rules. Once the regulations are implemented, the Department will follow its standard protocol to determine if increased reimbursement is necessary. As described in IDAPA 16.03.10.037.01, the Department will review reimbursement rates and conduct cost surveys when an access or quality indicator reflects a potential access or quality issue.	No policy change required
W	Demonstration and waiver programs that serve individuals who are dually eligible for Medicare and Medicaid benefits have not been made available as options.	At this time, Idaho Medicaid does not anticipate it will be necessary to add or change the current benefit package or eligible populations to implement the HCBS rules.	No policy change required
W	Recommend utilizing consistent language when identifying the person who is receiving HCBS and recommend using “individual” throughout.	Medicaid agrees that the wording can be improved for consistency. The term “individual” is being replaced with “participant” throughout in order to align with the rest of 16.03.10.	Clarification has been incorporated into rule language.

W	The State Transition Plan must provide more information about moving into compliance with the requirements than just options that have yet to be developed or implemented.	Medicaid is planning on publishing an addendum to the Transition Plan for public comment this September. It will describe how Medicaid expects to assess and monitor non-residential service settings. Additionally, the State Transition Plan will be posted for public review and comment each time substantive changes have been made. Substantive changes include new or significantly different assessment or monitoring plans in addition to the results of the yearlong assessment of HCBS settings that will occur in 2017.	No policy change required
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