|  |
| --- |
| Employment First & Community InclusionFrequently Asked Questions*(updated 9/17)* |
| Q |  **If someone we support is out of our day program in a group larger than four (4), why doesn’t that count as time spent in Community-Based Non-work for the purposes of the Employment Data Initiative?** |
| A | People with intellectual and developmental disabilities have traditionally been segregated together in settings and in services. That segregation has led to unequal access to jobs, experiences, relationships and community membership as compared to people in the same community without disabilities. [The Americans with Disabilities Act](https://www.eeoc.gov/eeoc/history/35th/thelaw/ada.html) and the Supreme Court’s [Olmstead Decision](https://www.olmsteadrights.org/about-olmstead/) describe what inclusive and segregated settings look like: *“The “most integrated setting” is defined as “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”  Integrated settings are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities.  Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of an individual’s choosing; afford individuals choice in their daily life activities; and, provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible.   Segregated settings include, but are not limited to: (1) congregate settings populated exclusively or primarily with individuals with disabilities; (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals’ ability to engage freely in community activities and to manage their own activities of daily living; or (3) settings that provide for daytime activities primarily with other individuals with disabilities.”*So, Community Inclusion is not simply defined as being out of a facility. An important aspect of the Centers for Medicare and Medicaid (CMS) [Final Rule](https://hcbsadvocacy.org/learn-about-the-new-rules/) is describing the ‘quality’ of the experience someone is having while receiving Home and Community Based Setting (HCBS) services. **Links to further resources:**<https://www.ada.gov/olmstead/olmstead_about.htm>  |
| Q | **Will my organization be in compliance with the Final Rule if we continue to support people in a facility based day program?**  |
| A | Yes, if the people supported in those programs and services:* have daily meaningful access to integrated community settings , as defined by the CMS Final Rule and DDA’s Community Settings Rule Policy
* people of working age have the ability to seek competitive employment
* For a comprehensive list of Exploratory Questions, [click here.](http://www.aucd.org/docs/policy/HCBS/references/exploratory-questions-non-residential.pdf)

**Links to further resources:**<http://www.aucd.org/docs/policy/HCBS/references/exploratory-questions-non-residential.pdf> <http://www.aucd.org/docs/policy/HCBS/references/FAQ%20settings-that-isolate.pdf>  |
| Q | **What if a person supported chooses not to spend time in the community and prefers to spend their time in a facility-based day program?** |
| A | Choice is an important aspect of person-centered services and supports. It is important to keep in mind that historically, people with intellectual and developmental disabilities have not had the same access to typical and integrated community settings and the ability to make meaningful choices about participation in those locations. Therefore, an important aspect to consider when supporting a person to increase their time spent in integrated community settings is that there may be an element of resistance based on many factors, including: *fear of the unknown, unawareness of choices that are available, negative past experiences, and more*.An important part of facilitating community membership is to approach it in a person-centered way. This means getting to know where any resistance may be coming from and support the person, their family and their team, to work through potential barriers. That makes certain that if there is a choice made, it is based on a wide breadth of experience and knowledge. Just asking someone “would you like to go out?” and getting a “no” reply is not truly providing person centered services or meaningful and informed choice. Some common ways to support someone who may be resistant to leaving a day program to spend time in integrated settings:* Allow the person to choose the activities, based on person-centered Discovery
* Allow the person to choose the others that will also be participating
* Get a long-term and/or favorite day program staff involved in providing support to the person in new community settings
* Using person-centered planning, figure out a schedule that meets the person’s needs
* Using person-centered planning, spend time figuring out the qualities that sites need to have for the person to feel comfortable (i.e. does the person prefer quite, low-traffic areas? does the person prefer predictability and structure?, does the person need the ability to leave a setting when he/she becomes overstimulated?)
 |
| Q | **What is Employment First?** |
| A | Employment First is the belief that all people, even people with significant disabilities or more complex support needs, are capable of working and being part of their community when given the proper support. The [State of Maryland](http://mdod.maryland.gov/employment/Pages/employment-first.aspx) has adopted an Employment First focus and is aligning its systems to support those outcomes. **Links to further resources:** <https://www.dol.gov/odep/topics/EmploymentFirst.htm> <http://mdod.maryland.gov/employment/Pages/employment-first.aspx>  |
| Q | **What if an individual does not want to work/have a job?** |
|  | The overwhelming expectation in society is that adults work. Society hasn’t always held the same expectations of people with intellectual and developmental disabilities. These different expectations have led to a difference in outcomes. If a person has spent most of their adult life never seeing work as an option in their lives, they may lack the life experience to understand what work is and what it could do for them. It’s also possible that team members or family members have also not shared those expectations, which means the bar has been set low for many people in regards to work and community life.If an individual is of working age (16-64), the team will help the person identify their barriers to employment.  If the person isn't working, they can still be supported to spend time in integrated community settings doing things that help them become included members of their home community. Ultimately, a person can choose not to work, but that choice should be an [informed choice](https://www.youtube.com/results?search_query=informed+decision+making) based on meaningful information and enough real experience and learning to make that decision. Working gives us access to money, control, social capital, choice, friends, knowledge, respect, self-assurance and so much more. The goal is to make sure all citizens, regardless of disability, have the same equal access to these things. **Links to further resources:** [**http://www.tennesseeworks.org/when-the-sheltered-workshop-closes/**](http://www.tennesseeworks.org/when-the-sheltered-workshop-closes/)[**http://www.ohioemploymentfirst.org/view.php?nav\_id=50**](http://www.ohioemploymentfirst.org/view.php?nav_id=50) |
| Q | **What is the CMS Final Rule and why do I keep hearing about it?** |
| A | The Centers for Medicare and Medicaid Services (CMS) is the federal entity that funds Home and Community-Based Services (HCBS) through the HCBS 1915(c) Waivers. In Maryland, some waiver services people may receive include Day Habilitation, Supported Employment, Residential or Personal Supports.On January 10, 2014 CMS published what was called [The Final Rule](https://hcbsadvocacy.org/learn-about-the-new-rules/). One of the focuses of the Final Rule is Home and Community-Based Settings Requirements. It establishes requirements about the qualities that a setting must have in order to be funded under the HCBS 1915 (c) waiver. For people receiving services in non-residential settings (i.e. Day Services, Employment Services) the settings must have the following qualities: *“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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)”* The setting must not have the effect of isolating a person with only other people with disabilities and paid staff, and must provide regular and meaningful access to integrated community settings. For more in-depth descriptions of settings that have the quality of meeting the Final Rule: [*http://www.aucd.org/docs/policy/HCBS/references/exploratory-questions-non-residential.pdf*](http://www.aucd.org/docs/policy/HCBS/references/exploratory-questions-non-residential.pdf)**Links to further resources:** <https://hcbsadvocacy.org/learn-about-the-new-rules/>  |
| Q | **Will our setting comply with the Final Rule if it is open to the public and community members spend time there?** |
| A | The act of opening up a setting to the public in order for it to be more inclusive is known as ‘reverse integration’. CMS has been clear that reverse integration alone will not be enough to meet the final settings rule.  |
| Q | **What if a person in services chooses to stay in a more segregated environment, like a facility-based Day Program? Wouldn’t this be considered Person Centered?** |
| A | While personal choice is an important part of person centered services, all HCBS services will be required to comply with the Final Rule requirements. In other words, a person will have the ability to choose outcomes and goals based on their own personal values, interests and support needs, but they will not be able to receive that service in a setting that does not have the qualities of an integrated community-based setting that meets the settings rule.  |
| Q | **If we are going to support people in the community, will we be getting more money for that?** |
| A | DDA is currently conducting an independent rate setting study to establish provider rates for community based services. The study includes a rate analysis and an impact study that looks at the actual cost of providing community based services. Items to be considered as part of the study include;* Transportation
* Appropriate wage and benefit levels for direct support and supervisory staff;
* Fiscal impact of absence days

Following the rate study, the independent consultant will provide recommendations to DDA for consideration.  |
| Q | **How can we support people with significant support needs (i.e. medical, behavioral) in community settings?** |
| A | Everyone’s services, regardless of their individual support needs, should be based on a Person Centered Plan (PCP). This plan should be a positive document that identifies a person’s strengths, interests, abilities and dreams. A plan is a place for a person and their team to identify what is important to and for the person and what specific support needs the person needs in order to be happy, healthy and lead a fulfilling life of their choice. Supports can be both formal and informal and should include typical community services and supports as well as funded services. There is no one way to develop a PCP, and the process should be flexible and meet the needs of the person and their family and team. **Links to further resources:** <http://flfcic.fmhi.usf.edu/docs/Discovery%20Charting%20the%20Course%20to%20Employment.pdf>  |
| Q | **What if the individual does not use words to communicate? How do we know what they want to do?** |
| A | All behavior is communication; therefore, someone doesn’t have to have good verbal skills in order for support staff and teams to get to know what is important to and for that person.  Instead, each person should be receiving services and supports that are developed through a robust Person Centered Planning process, including community-based Discovery. Formal and informal Discovery is a process that is typically facilitated by a person that has been trained and certified in the Discovery process, and includes (at the very least): * Home visits,
* Person-centered planning meetings,
* Community-based experiences and job trials, and
* Development of a Discovery Profile that can lead into individualized Job Development.

When supporting someone that has spent many years in a day program or sheltered workshop, this process is very important.  Even if someone is able to verbally say what they enjoy or want, it is probably based on more limited experiences and understanding of what is available for them.  The goal for Discovery is for everyone, including the individual, to Discover something new. It is also very important to note that most (estimates say anywhere between 75-90%) of our communication is done non-verbally. This can include behavior, body language, facial expression, posturing and gesturing. Once we get to know someone by spending time with them, we tend to get good at knowing what it takes for that person to have a good day, even if they don’t tell us with words. We learn what environments make them happy, what type of activities they prefer and don’t prefer and what they like and don’t like. This is what PCP is all about.The ability to have fun, having control over daily activities, access to the community, control over how people do things, choice in all important areas of a person’s life and daily meaningful activity are all important things to pay attention to for every person supported. **Links to further resources:** Who is this Person? <https://www.youtube.com/watch?v=ZZ4sbThEz0g> <http://flfcic.fmhi.usf.edu/docs/Discovery%20Charting%20the%20Course%20to%20Employment.pdf>  |
| Q | **How will our agency provide transportation?** |
| A | Transportation can be provided in many different ways.  Where available, public transportation should be explored as an option, including utilizing Transportation Training as a community-based training curriculum for people of all abilities.  When shifting from facility-based to community-based services, providers should explore looking at transportation differently.  For example, instead of busses bringing people to a central building daily, it helps to build someone's day around their home community, in smaller groups (1-4) and in smaller, less expensive vehicles.  An individual can be picked up from their home and taken directly to their job or community-based activity of the day.  This takes planning and each agency should start by focusing on the needs of one person at a time when developing strategies.**Links to further resources:** <http://www.nadtc.org/> <http://www.projectaction.com/travel-training-resources/>  |
| Q | **We do not have enough staff to support everyone 1-1. How do we staff for this?** |
| A | Not everyone receiving services needs 1:1 support, and not everyone that needs *some* 1:1 support needs it all the time. An important part of facilitating integrated, community supports is the building of natural non-paid supports for people.  Helping to expand people’s social networks is one of the best ways to assist in forming new relationships. Along with unpaid supports, DDA is including a new service in the next waiver called Co-worker Supports. This will allow an employer to receive time- limited payment to assist so that a chosen co-worker can assist an individual in getting acclimated to the culture and work tasks of a particular environment and job. This is not meant to take the place of natural supports or a job coach, but instead provide an additional level of co-worker mentoring above and beyond a person’s typical job duties when there may not be a need or desire to have an onsite job coach. Each person’s individual support needs should be identified and documented in the PCP, and can include unsupervised time. **Links to further resources:**<http://rtc.umn.edu/docs/Friends_Connecting_people_with_disabilities_and_community_members.pdf>  |
| Q | **Will Day programs have to close? What if an organization chooses not to provide customized employment?**  |
| A | No, Day Programs will not have to close. However, if a provider chooses to continue providing services, then these services must meet the settings rule. If a service provider supports people of working age (16-64), then their PCP will include a plan that identifies the barriers to employment and community integration, regardless of what service the person is receiving. The plan should include action plans to address any barriers. DDA has remained committed to providing access to technical assistance and resources focused on building capacity around customized employment and community inclusion.These new expectations provide an opportunity for individuals to increase their level of community engagement in a meaningful way. This is different than taking outings in large groups. People should have access to the community daily so that they have the ability to make an informed choice about how they would like to be spending their days and doing what. If a provider chooses to only support people of retirement age, then services would focus on community-based retirement activities that meet those people's individual needs and be provided in final rule settings requirement.  People of retirement age can still choose to work and should be supported in those goals. Regardless of age, the PCP will include an individualized plan that outlines action steps to increase time spent in integrated settings. **Links to further resources:** <https://www.medicaid.gov/medicaid/hcbs/downloads/final-rule-slides-01292014.pdf> <http://www.aucd.org/docs/policy/HCBS/references/hcbs-setting-fact-sheet.pdf>  |
| Q | **What happens if the individual decides he/she does not like their job or refuses to go?** |
| A | Quality Discovery and Person Centered Planning is integral to helping people find jobs that are both meaningful and meet their needs.  There are many reasons why someone might not be interested in going to their job on a given day. Reasons could include illness, not a good job match, an upsetting incident, feeling stressed, etc. The team should plan with the person to address the needs and make a plan. Ultimately, if someone doesn't like their job, and chooses to quit, the team is there to support the person through that process.  |
| Q | **Who will ensure the individual’s safety in community settings?** |
| A | Health and Safety are important for everyone. Safety doesn't happen only in traditional day program settings, and it should also be pointed out that people can and do get injured in those settings as well. Safety happens through the development and implementation of a good and meaningful Person Centered Plan. Each person's individual support needs should be clearly outlined in the PCP and all support staff should have an understanding of what those support needs are. All people are ultimately safer when they are well known by multiple people in multiple settings who can all support them in both specific and broad ways. **Links to further resources:** <http://www.nationalcoreindicators.org/indicators/>  |
| Q | **Will the individuals still have IPs and goals?** |
| A | Yes, each person will have a Person Centered Plan. Outcomes will be based on what the person has identified as important to them and it will then be up to a provider to structure supports and services.  Supports could include family supports, natural community supports or formal waiver services.  |