

**STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

1

**Transition Advisory Team Meeting  
Topic: Provider Survey**

**Wednesday, May 27, 2015 and Monday, June 1, 2015**

# Meeting Overview

2

- **Introductions**
- **Background on Final Rule**
- **Assessment tool examples from other states**
- **Draft provider survey**
- **Survey evaluation form**
- **Public comment**
- **Next steps**

# Background

3

- **HCBS Settings Final Rule**
  - CMS issued this final rule on January 16, 2014
    - ✦ The final rule lists many items HCBS providers must comply with to receive Medicaid payment under federal HCBS waivers.
    - ✦ The new items relate more to outcomes, making sure individuals are getting the most out of community living and are getting services in integrated settings.

**New Rules**

RULES  
1. YOU CAN....  
2. YOU CAN'T..  
3. YOU CAN...  
4. YOU CAN'T

# Background

4

- **The Final Rule establishes:**

- Qualities of HCBS settings
- Settings that are not HCBS
- Settings that are presumed not to be HCBS
- State compliance and transition requirements

- **The Final Rule excludes the following settings:**

- Nursing facilities
- Institutions for mental disease
- Intermediate care facilities for individuals with intellectual disabilities
- Hospitals (CMS, 2014)

**New Rules**

# Background

5

- All HCBS settings:
  - Are integrated in and support full access to the community
  - Support seeking employment in integrated settings
  - Are picked by the individual from among different options
  - Protect individual rights of privacy, respect, and freedom from bullying and restraint
  - Increase freedom and independence in making life choices
  - Support choice in picking services and providers

Community



# How does the Provider Survey relate to the CMS requirements?

6

- **CMS regulatory requirements state that:**
  - 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.

# How does the Provider Survey relate to the CMS requirements?

7

- CMS regulatory requirements state that:
  - 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.
    - ✦ 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.

# Example 1: Alaska

8

- 28 questions
- Two sections
  - HCBS settings (general)
  - Provider-owned or –controlled residential settings

## Provider Self-Assessment of Settings in which Home and Community-Based Services are Provided

1. Provider agency name:  
Provider number:  
Individual completing survey  
Telephone number of individual completing survey  
Email address of individual completing survey

### Background

The Centers for Medicare and Medicaid (CMS) has amended Medicaid regulations to include home and community-based setting requirements, 42 CFR 441.300 – 441.304. The purpose of these regulations is to ensure recipients receive services in integrated community settings that are appropriate to their needs and that provide full access to the benefits of community living. CMS has directed the states that receive Medicaid funding to verify that services are provided in settings that have the qualities required for home and community-based services.

To meet the requirements of the mandatory setting verification process, Senior and Disabilities Services (SDS) has developed this self-assessment survey for SDS-certified home and community-based services providers

- to guide provider agencies through the new federal regulations with clarification of what is, and is not, a home and community-based setting
- to provide an opportunity for provider agencies to analyze the qualities of their service settings
- to alert provider agencies of the need to identify and make any improvements to policies, procedures, or the physical environment that would make the setting consistent with the CMS-defined qualities of a home and community-based setting.

### Survey information

Your agency should submit only one online survey, whether home and community-based services are provided in one setting or in multiple settings. Please evaluate each setting in which home and community-based services are provided as a separate entity when considering the survey questions. If all settings have the quality under consideration, indicate this on the survey. If, however, even one of multiple settings does not have the quality, indicate the name and address of the setting, and what the agency will do to make the setting consistent with the regulation.

The survey has two parts: Part One is applicable to all settings, including provider-owned or controlled residential settings; Part Two is applicable only to residential settings.

- Review all non-residential settings using the questions in Part One only.
- Review all provider-owned or controlled residential settings using Part One and Part Two

Thank you for your cooperation and assistance in this endeavor as together we work to enhance the quality of Medicaid home and community-based services.



# Example 1: Alaska

9

## PART ONE

### Home and community-based services settings

The questions in Part One apply to all settings, including provider-owned or controlled residential settings.

#### Instructions

Consider each setting in which home and community-based services are provided as a separate entity when answering questions.

For each setting where waiver services are provided to recipients

- review the setting quality, the federal regulation, and statement program impact
- answer the questions related to the regulation
- for each setting that does not meet the CMS-defined quality addressed by the question, list the name and address of the setting and describe what the agency will do to make that setting consistent with the regulation

#### Setting quality: NON-INSTITUTIONAL CHARACTERISTICS

##### Federal regulation

42 CFR 441.301 (c)(5) A location that has the qualities of an institutional setting is presumed to lack the qualities of a home and community based (HCB) setting, including the following:

- A setting that is located in a building that is a publicly or privately operated facility that provides inpatient institutional treatment
- A setting that is located in a building on the grounds of, or immediately adjacent to a public institution
- A setting that isolates recipients from the broader community of individuals who do not receive waiver services

##### Program impact

Waiver services may be provided only in locations that have the qualities of a home and community-based setting. Some locations, defined in the regulation, are presumed to lack such qualities because they isolate recipients from the community.

##### Self-assessment questions

2. **Is any setting in which the agency provides waiver services located in a building that is a publicly or privately operated facility that provides inpatient institutional treatment, or on the grounds of, or immediately adjacent to a public institution?**
- Yes.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance. | \_\_\_\_\_
- No**
3. **Does any setting in which the agency provides waiver services isolate recipients from the broader community of individuals who do not receive waiver services?**

CMS Guidance When assessing settings to answer these question, consider this list of characteristics that may indicate a setting that isolates:

- The setting is designed specifically for people with disabilities
- The setting is designed to provide people with disabilities multiple types of services and activities on-site
- Individuals in the setting are primarily or exclusively people with disabilities
- Individuals in the setting have little, if any, interaction with other others in the broader community

In addition, consider whether any setting could be one of the following types of settings that have the effect of isolating recipients:

- Farmstead or disability-specific farm/ranch community
- Gated or secured community specifically for persons with disabilities
- Residential schools
- Multiple settings operationally related and near each other (for example, group homes in close proximity)

- Yes.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance. | \_\_\_\_\_
- No**

# Example 2: Florida

10

- Two separate surveys
  - Residential (32 questions)
  - Non-residential (9 questions)
- Comments section for each question
- Probing questions

Attachment III HCB Characteristics Review Tool – Residential Settings			
Date			
Facility Reviewer Name			
Enrollee ID (if interview conducted)			
Facility Name		Facility Type	
Address			
1. Setting			
Standard	Comments	Standard Met Y/N/NA	Example Probing Questions
<p>1.1 Does the facility's setting intentionally, or effectively, isolate individuals from the surrounding community and persons who are not receiving Medicaid HCB services?</p> <p><u>Expectation:</u> Individuals do not live in isolated compounds, or settings that limit their potential integration with the community at large.</p>			<ul style="list-style-type: none"> <li>- Is the facility surrounded by high walls/fences and/or have closed/locked gates?</li> <li>- Is the facility setting among private residences/businesses and community resources?</li> <li>- Does the facility purposefully separate individuals receiving Medicaid HCB services from those who do not, or groups of individuals from others?</li> <li>- Is the facility on the grounds of, or adjacent to, a public institution?</li> <li>- Is the setting on a gross lot area exceeding 8 acres?</li> <li>- Is the setting located on a parcel of land that contains more than one State licensed facility?</li> <li>- Is there an ADT program, or a licensed residential facility on the same or adjacent parcels of land?</li> <li>- Does the licensed capacity of the facility exceed 15 residents?</li> </ul>
<p>1.2 Do the facility's common areas have a home-like feel?</p> <p><u>Expectation:</u> The communal areas do not resemble an institution and are conducive to comfortable and social interactions free from undue restrictions.</p>			<ul style="list-style-type: none"> <li>- Are the common areas decorated in a homely fashion (paint, artwork, home furnishings etc.)?</li> <li>- Is there a common living room/social area with homely furnishings?</li> <li>- Are individuals free to move around common areas?</li> </ul>
<p>1.3 Is the facility traversable by the individuals it serves; does it meet the needs of individuals who require supports?</p> <p><u>Expectation:</u> Individuals are able to maneuver through the hallways, doorways, and common areas with or without assistive devices. Supports are available to individuals who require them.</p>			<ul style="list-style-type: none"> <li>- Are supports provided for individuals who need them to move around the setting independently/at will (grab bars, ramps, viable emergency exits, etc.)?</li> <li>- Are appliances/amenities accessible to individuals with varying access needs?</li> <li>- Can individuals make use of furniture and spaces conveniently and comfortably?</li> <li>- Are hallways/common areas accessible to individuals of varying needs?</li> <li>- Are individuals, or groups of individuals, restricted from areas of the facility because it is inaccessible to individuals with specific ambulatory needs?</li> </ul>

# Example 3: Hawaii

11



- Residential provider survey:
  - 12 categories
  - 61 questions
- Non-residential provider survey:
  - 11 categories
  - 59 questions









## Primary Caregiver Residential Survey

How many clients do you currently provide services to?  
 How many beds or clients are you licensed or certified for?  
 If you are a certified CCFH, did you provide care to any private-pay clients during the past year?  
 Date you did this survey:

This survey will help us understand the services you provide in the home. We want to hear about your services and how they help our clients to be independent, make decisions and choices.

Things to **THINK** about when you are doing this survey:

1. Think about the home your client(s) **LIVE** in.
2. Tell us what it is like living in your **HOME**.
3. Tell us about the **CHOICES** your client(s) get to make.
4. Check the box to answer **YES**  or **NO**  to the questions.

		YES 	NO 
<b>CHOICE</b>			
<b>1. Clients Home</b> 	<b>Does your client(s)</b>		
	a. Have an agreement in writing for where s/he lives?	<input type="checkbox"/>	<input type="checkbox"/>
	b. Know the housing rights in regards to their agreement?	<input type="checkbox"/>	<input type="checkbox"/>
	c. Share a room?	<input type="checkbox"/>	<input type="checkbox"/>
	d. Choose their roommate?	<input type="checkbox"/>	<input type="checkbox"/>
	e. Get to decorate their room with their favorite things?	<input type="checkbox"/>	<input type="checkbox"/>
	f. Pick the clothes s/he wants to wear?	<input type="checkbox"/>	<input type="checkbox"/>
<b>2. Going out</b> 	<b>Does your client(s)</b>		
	a. Go out into the community?	<input type="checkbox"/>	<input type="checkbox"/>
	b. Pick how often s/he goes out?	<input type="checkbox"/>	<input type="checkbox"/>
	c. Choose what to do?	<input type="checkbox"/>	<input type="checkbox"/>
<b>3. Schedule</b> 	<b>Does your client(s) pick the time s/he</b>		
	a. Gets up and goes to bed?	<input type="checkbox"/>	<input type="checkbox"/>
	b. Takes a bath?	<input type="checkbox"/>	<input type="checkbox"/>
	c. Watches TV?	<input type="checkbox"/>	<input type="checkbox"/>
	d. Talks on the phone?	<input type="checkbox"/>	<input type="checkbox"/>
	e. Goes on the computer?	<input type="checkbox"/>	<input type="checkbox"/>
<b>4. Meals &amp; Snacks</b> 	<b>Does your client(s) choose</b>		
	a. What s/he wants to eat?	<input type="checkbox"/>	<input type="checkbox"/>
	b. What time s/he wants to eat?	<input type="checkbox"/>	<input type="checkbox"/>
	c. Where s/he sits to eat?	<input type="checkbox"/>	<input type="checkbox"/>
<b>5. Person-Centered Plan</b> 	<b>Does your client(s)</b>		
	a. Attend a Person-Centered Planning meeting?	<input type="checkbox"/>	<input type="checkbox"/>
	b. Pick the time, place, and who attends the meeting?	<input type="checkbox"/>	<input type="checkbox"/>
<b>PRIVACY</b>			
<b>6. Inside your home</b> 	<b>Does your client(s)</b>		
	a. Have a key to the home?	<input type="checkbox"/>	<input type="checkbox"/>
	b. Close and lock the bedroom door?	<input type="checkbox"/>	<input type="checkbox"/>
	c. Have a key to their bedroom?	<input type="checkbox"/>	<input type="checkbox"/>
	d. Close and lock the bathroom door?	<input type="checkbox"/>	<input type="checkbox"/>

# For more information...

12

- The National Association of State Directors of Developmental Disabilities Services (NASDDDS) has compiled a list of links to each state's HCBS statewide transition plan:
  - [http://www.nasddds.org/uploads/documents/statewide\\_transition\\_plans\\_04.29.20152.pdf](http://www.nasddds.org/uploads/documents/statewide_transition_plans_04.29.20152.pdf)

# Questions and Comments

13

**HCBS rule website:**

<https://mmcp.dhmf.maryland.gov/waiverprograms/SitePages/Community%20Settings%20Final%20Rule.aspx>

**DDA website:**

<http://dda.dhmf.maryland.gov/SitePages/Home.aspx>

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