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Medicaid 100

Home and Community-Based Services

Final Rule Overview

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Objectives

- ▶ Overview of the Medicaid Final Rule Requirements
- ▶ Intent of the Final Rule
- ▶ HCBS Setting Requirements
- ▶ Resources for the HCBS Final Rule

Home and Community-Based Services Final Rule

- ▶ Published in Federal Register on January 16 2014
- ▶ ALL states to meet requirements by *March 17, 2022**

Intent of the Final Rule

- ▶ To ensure that individuals receiving long-term services and supports through home and community-based services (HCBS) programs have full access to community living and opportunity to receive services in the most integrated settings
- ▶ To enhance the quality of HCBS and provide protections to individuals

CMS Final Rule

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graph TD; A[CMS Final Rule] --> B[My Choice My Way Transition Plan]; B --> C[Waivers*];
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My Choice My Way Transition Plan

Waivers*

* sections 1915(c) and 1115 of the Social Security Act

HCBS Setting Types

▶ Residential

- ▶ Adult Residential Care Homes and Expanded ARCH
- ▶ Assisted Living Facilities
- ▶ Community Care Foster Homes
- ▶ Developmental Disabilities Adult Foster Homes
- ▶ Developmental Disabilities Domiciliary Homes
- ▶ Special Treatment Facilities/Therapeutic Living Programs

- ▶ * HCBS rule does not apply to own home or family member home

HCBS Setting Types

- ▶ **Non- Residential**

- ▶ Adult Day Care

- ▶ Adult Day Health

- ▶ Developmental Disabilities Adult Day Health

HCBS Setting Requirements

The final rules requires that all HCBS settings be

- ▶ Integrated and have full access to the community
- ▶ Opportunity to seek competitive employment
- ▶ Independence in making life choices
- ▶ Right to privacy, dignity, respect and freedom from restraint

HCBS Setting Requirements

- ▶ Setting is chosen by member
- ▶ Option to choose a private unit in a residential setting
- ▶ Choice of services and who provides them

Additional requirements for provider-owned or operated residential settings

- Lease or legal agreement to protect from eviction
- Privacy in own bedroom or unit
- Choice of roommates
- Freedom to decorate and furnish bedroom or unit

Additional requirements for provider-owned or operated residential settings

- ▶ Control of schedule and activities
- ▶ Access to food at any time
- ▶ Visitors of their choosing at any time
- ▶ Physical accessible inside and outside of home

Modifications or Limitations

- ▶ Supported by assessed needs
- ▶ Will not be used without the members (or your authorized representative's) informed consent
- ▶ Only be used when there is a health or safety risk
- ▶ Shall be documented in the person-centered plan

What are NOT HCBS settings?

Nursing facility

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graph TD; A[Nursing facility] --> B[Institution for mental diseases (IMD)]; B --> C[Intermediate care facility for individuals with intellectual disabilities (ICF/ID)]; C --> D[Hospital];
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Institution for mental diseases (IMD)

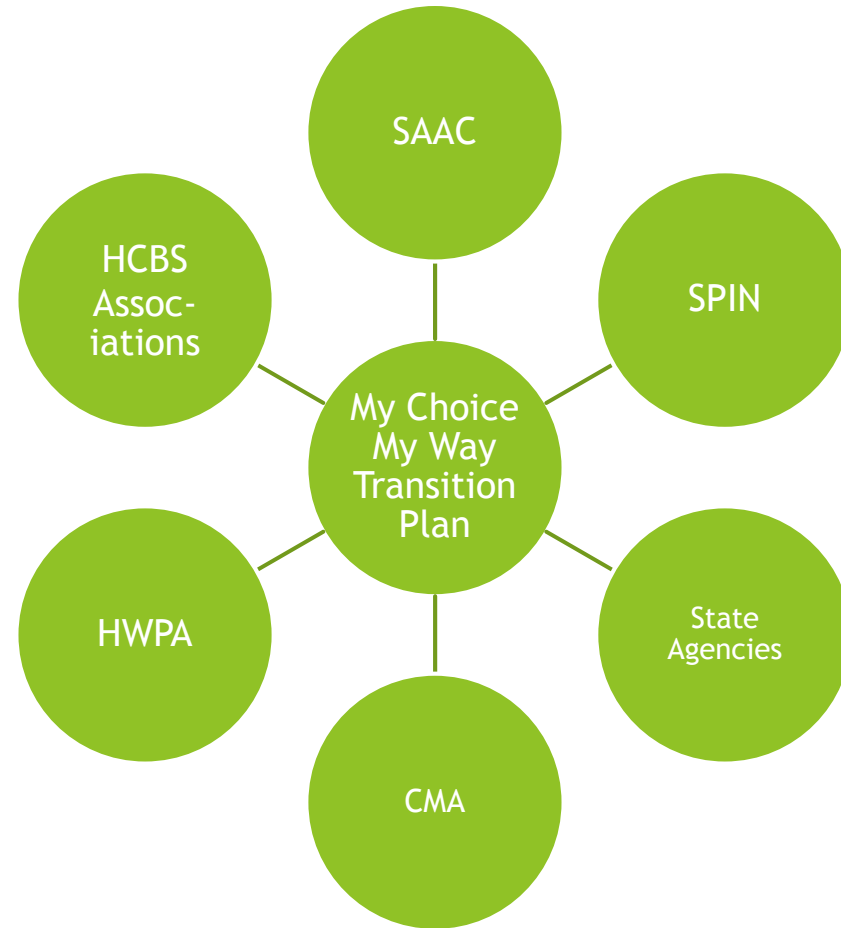
Intermediate care facility for individuals with intellectual disabilities (ICF/ID)

Hospital

Hawaii's Transition Plan aka “My Choice My Way”



My Choice My Way Advisory Group



My Choice My Way

The plan includes the following:

- ▶ State policies to conform with the rules
- ▶ Assessment of settings for compliance with the HCBS requirements
- ▶ Timelines and milestones in the transition plan process
- ▶ Public comments

My Choice My Way Update

- ▶ Updated transition plan December 2016
- ▶ Initial approval from CMS January 13, 2017
- ▶ Available on DHS Med-QUEST Website

www.med-quest.us/#HCBSTran

How does the State determine if a setting meets the HCBS requirements?

- ▶ Self Assessment Surveys
- ▶ On site Validations
- ▶ Categories
 - ▶ 1. Settings that fully comply with the HCBS requirements;
 - ▶ 2. Settings that do not comply with the HCBS requirements and will require modifications;

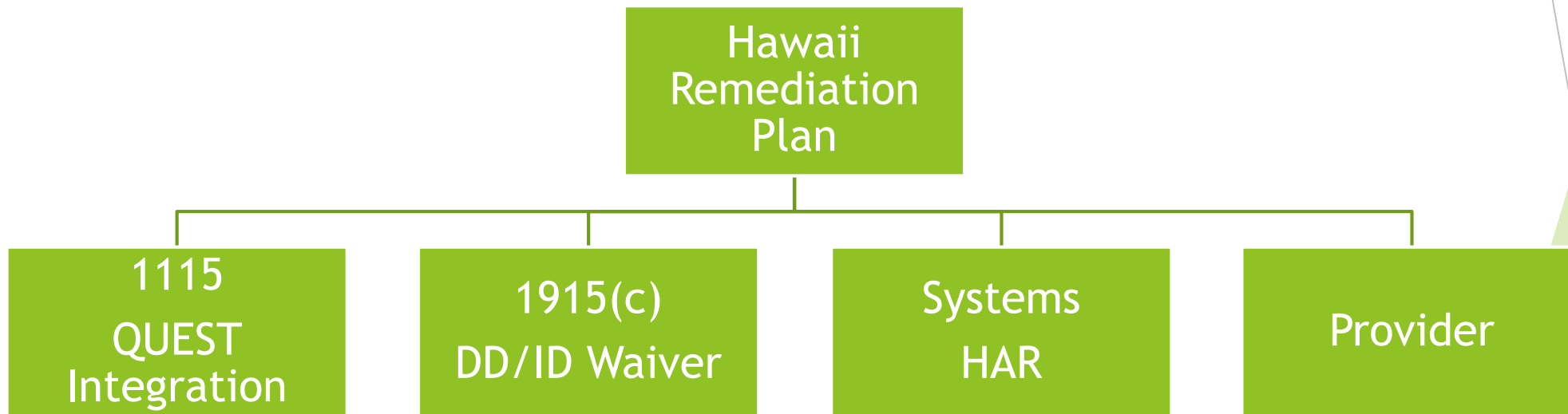


How do states determine if a setting meets the HCBS requirements?



- ▶ 3. Settings that cannot meet the HCBS requirements
- ▶ 4. Settings that are *presumed not* to be home and community based (i.e., are institutional in nature) but for which the state will provide justification/evidence through the *heightened scrutiny process* to show each setting does not have the characteristics of an institution and has the qualities of HCBS settings.

Waiver Specific Remediation



Provider Specific Remediation

- ALL HCBS settings will require remediation
- Develop a “Provider Specific Transition Plan” also know as a corrective action plan
- Access to technical assistance
- State agencies will provide oversight and monitoring of transition plan



What happens to people using *non-compliant* services? Will they lose services?

- ▶ No.
- ▶ Relocation Plan
 - ▶ Coordinate a transition of care plan for participants in settings that cannot meet the HCBS requirements.

Assessment Activity

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Creative Solutions Case Study

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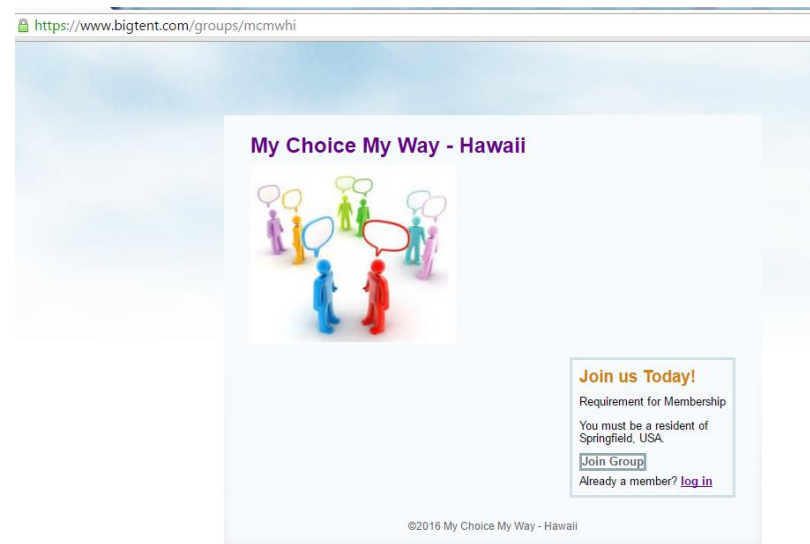
Putting it together “Belonging to community”



Big Tent- Public discussion board

<https://www.bigtent.com/groups/mcmwhi>

Search Group Name:
MCMWHI



For More Information

**Hawai'i Department of Human Services
Med-QUEST Division
My Choice My Way, HCBS Transition Plan**

Website: <http://www.med-quest.us/#HCBSTran>

Email: mychoicemyway@dhs.hawaii.gov

For More Information

- ▶ More information about the final regulation is available:

<https://www.medicaid.gov/medicaid/hcbs/>

- ▶ All Providers need to know their requirements regarding compliance with the HCBS Final Rule. More information about the final regulation is available:

<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>