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

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
- 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

- SAAC
- SPIN
- HCBS Associations
- HWPA
- CMA
- State Agencies

My Choice My Way Transition Plan
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

Hawaii Remediation Plan

- 1115 QUEST Integration
- 1915(c) DD/ID Waiver
- Systems HAR
- Provider
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
Creative Solutions Case Study
Putting it together
“Belonging to community”

Full life in community

Self-direction
Choice
Integration
Participation
Person-centered
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
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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