



GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

Home and Community-Based Services (HCBS)



New Federal Rules and Transition Planning

Date: 08/27/2014

HCBS Rule

Home and Community-Based Services

- Waiver services are known as Home and Community-Based Services or HCBS
- HCBS services are available to individuals whose functional needs would otherwise make them eligible under Medicaid to receive services in a hospital, nursing home, or similar institution
- The waiver allows individuals to choose services at home or in the community instead of in an institutional setting

Home and Community-Based Services

- When waivers were first made available (1981), much was to be learned about what a HCBS setting should look like or how HCBS services should be delivered.
- We have learned a lot since then about how to serve individuals who are elderly and/or have disabilities and how to help them stay in the community. For examples:
 - We added person-centered planning to support individual choice in how, where, and when they receive services as well as what services they receive
 - We added self-direction to certain waivers to give individuals more decision-making power about how their service dollars are spent and who is hired to provide services to them.

Home and Community-Based Services

- Now, new federal laws have been passed that support what we have learned.
- CMS (Centers for Medicare and Medicaid Services) has published new rules about where and how services are to be provided offering definitions and descriptions in detail for the first time.
 - These are called the HCBS Setting Rules.
- States are now being required to develop a plan for how they will make sure the definitions and descriptions in their waivers match the definitions in the new rule.

Overview of the HCBS Rule

Important parts of the HCBS rule (CMS 2249F)

- Went into effect 3/17/2014
- Provides the definition and qualifications of a home and community-based setting under Medicaid (HCBS waivers and state plan)
- Defines person-centered planning requirements and conflict of interest standards for case management
- Requires transition planning to ensure states adopt and follow the new requirements

Home and Community-Based Settings

- **New HCBS rule requires that an HCBS setting:**
 - Is fully included in the community, is part of the community, and provides full access to the greater community
 - Is selected by the individual from more than one setting option
 - Supports individual choice of services and supports
 - Ensures privacy, dignity, respect, and
 - Never forces an individual to do something they don't want to do or keeps them from doing something they do want to do

Person-Centered Planning

- The person-centered planning process must:
 - Allow the individual to lead the process, when possible
 - Include family members, friends, and others selected by the individual
 - Provide individuals with necessary information to make informed decisions about their choice of available services and providers
 - Reflect the individual's strengths, preferences, goals and desired outcomes

Conflict of Interest

- Service providers should not also provide case management, including development of the the person-centered service plan
- Exceptions are allowed if the State...
 - Demonstrates the provider is the only willing and qualified entity to provide case management in a geographic area, and
 - Has protections, including separation of case management agent and provider functions (e.g., administrative firewalls)

What The Rule Means for HCBS Providers

- HCBS providers may need to make changes to comply with the new definitions, for example:
 - Allowing residents/consumers more flexibility in their scheduling, access to food, visitation hours, and privacy
 - Training and evaluating staff on person-centered service delivery
 - Creating more opportunities for consumers to be active in the community
 - CMS will pay particular attention to settings that “have the effect of isolating individuals from the community”

What The Rule Means for Consumers and Advocates

- Individuals have the right to receive services in the community to the same degree as those not receiving HCBS.
- Individuals can lead their own person-centered planning process and choose who participates.
- Individuals should express their strengths, preferences, and goals to their case manager.
- Individuals must be allowed to select the services they receive, where they live among available options, and the providers of those services.
- Individuals have the freedom to control their own schedules, personal resources, and other aspects of their living arrangement.
- Individuals must be treated with dignity and respect, and be free from coercion or restraint.

Transition Planning

Transition Planning

- DCH must submit a “statewide transition plan” to CMS that addresses how it will comply with the HCBS Settings requirements for **all five** 1915(c) HCBS waivers.
- DCH must first submit transition plans for its waiver amendments to change certain rates, increase the number of people who can be served, and other programmatic changes.
- The individual waiver transition plans are high-level and will inform the statewide transition plan. Plans are required for the following waivers:
 - New Options waiver
 - Comprehensive Support waiver
 - Elderly and Disabled waiver
 - Independent Care waiver
- States have up to five years to bring all HCBS settings into compliance, but CMS encourages states to transition as quickly as possible.

Georgia's Transition Plans

Georgia's Waiver Transition Plans have four (4) main categories

1. **Identification** (making a list of every setting we have in each waiver)
2. **Assessment** (how we test settings to see whether they follow the new rule or not)
3. **Remediation** (fixing what is wrong and doesn't match the new rule)
4. **Outreach and Engagement** (how we let people know what's going on and how we include them)

Georgia's Waiver Transition Plans

1. **Identification:** Review existing state standards, policies, regulations, and code to determine changes needed to align with the federal requirements, such as:
 - Regulations and facility licensure
 - Person-centered planning requirements and documentation
 - Oversight and monitoring
2. **Assessment:** Survey all residential and nonresidential providers
 - Providers will complete a self-assessment for each setting (Fall 2014)
 - Georgia will defer surveys of non-residential providers until CMS issues additional guidance about requirements for nonresidential settings

Georgia's Waiver Transition Plans

3. **Remediation:** Outline strategies that DCH will implement to bring all settings into compliance
4. **Outreach and Engagement:** The plan will describe how DCH will engage stakeholders in the policy development process

Georgia's Waiver Transition Plans

Statewide Comprehensive Transition Plan

- Much more detail on how we carry out the plan
- Increased involvement of stakeholders in adding the detail
- Will most likely add at least a 5th part:
 - **Monitoring and Evaluation:** The plan will describe how DCH will monitor and evaluate providers to assure compliance

Public Input

- The new HCBS Rule requires states to post all transition plans for public comment for 30 days
- DCH is implementing a transparent process and plans to engage stakeholders early and often
- DCH is committed to conducting the assessment and planning process from the participant's perspective
- Comments may be submitted to: HCBSTransition@dch.ga.gov



Targeted Timeline

Transition plan development

August-
September
2014

- Waiver transition plans submitted to CMS

Fall 2014

- DCH begins surveying HCBS providers

Early
November
2014

- Proposed statewide transition plan posted for public comment (30 days)

December
15, 2014

- Statewide transition plan submitted to CMS

Mid-March
2015

- CMS approves statewide transition plan



Targeted Timeline

Transition plan implementation

April 2015

- Transition Plan Implementation begins

Ongoing

- Monitoring
- Evaluation
- Report out

March 2020

- All HCBS settings in full compliance with supporting policies in place at each level of service delivery

Additional Resources

<http://www.medicaid.gov/HCBS>: All materials generated by CMS.
Where to watch for future guidance.

hcbs@cms.hhs.gov: mailbox for additional questions to CMS

www.dch.georgia.gov/waivers Georgia's HCBS Transition Plan resource page

<http://HCBSadvocacy.org>: HCBS informational website