



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 5<sup>th</sup> 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](mailto: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](mailto:hcbs@cms.hhs.gov): mailbox for additional questions to CMS

[www.dch.georgia.gov/waivers](http://www.dch.georgia.gov/waivers) Georgia's HCBS Transition Plan resource page

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