ASSISTED LIVING IN AN HCBS FRAMEWORK: IMPLEMENTING THE NEW FEDERAL RULES AND LOOKING TO THE FUTURE

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HCBS Regulations

Applies to –

• 1915(c) - HCBS waivers
• 1915(i) - HCBS state plan options
• 1915(k) - Community First Choice
Standards that apply to all HCBS Settings

- Be integrated with the community

- Provide choice
  - Among setting options
  - Regarding services and supports, including who provides them

- Give rights to privacy, dignity, respect, and freedom from coercion and restraint

- Maximize independence, autonomy
Provider Owned/Controlled Residential Settings

• All of the HCBS Setting Requirements listed above apply

• Additional standards must be met:
  • Lease or other enforceable agreement
  • Protection from eviction
  • Privacy in sleeping or living units
  • Choice
  • Right to receive visitors
  • Physical accessibility
Enforceable Agreement

Leaser or other enforceable agreement for a specific living unit
Protection from Eviction

Protections against eviction at least as strong as a state’s landlord-tenant law
Privacy

• Privacy in living or sleeping units
• Lockable doors
• Keys to appropriate staff only
Choice

- Roommates
- Furnish and decorating their unit
- Schedule and activities
- Access to food at any time
Visitors

• Right to visitors of his/her choosing

• Any time of day or night
Physical Accessibility

• No obstructions limiting an individual’s mobility in the setting or has environmental adaptations to address the obstruction
  • If steps exist, then access must be provided for the individual, such as by a stair lift, ramp, or elevator

• Supports – ie, grab bars, shower seats

• Furniture, appliances accessible

• No modification of this requirement allowed
Modification of Rights

• Alternative strategies must be tried

• The consumer’s specific assessed need must be included in the service plan

• Informed consent of the consumer

• Periodic review to determine if the modification is still necessary
NOT HCBS Settings

- Nursing homes
- Institution for mental disease
- Intermediate care facility for individuals with intellectual disabilities
- Hospitals
- Other locations determined to have characteristics of an institutional setting as determined by CMS
CMS HCBS Toolkit

- Summary of regulatory requirements
- Heightened scrutiny process
- HCBS 1915 (c ) compliance flowchart
- Guidance regarding settings that isolate
- Exploratory questions
- Statewide Transition Plan Toolkit

http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html
Person-Centered Planning

Process

Service Plan
Person-Centered Planning Process

• Be lead by the individual

• Information to help the consumer make informed decisions

• Be timely and convenient for the consumer

• Reflect cultural considerations, language the individual understands
Person-Centered Planning Process

- Include strategies for resolving conflicts in the process

- Offer informed choice about services, supports, and providers

- Provide a way for the individual to request the plan be updated

- Record the alternative HCBS settings considered
Person-Centered Service Plan

- Reflects personal preferences and items of importance for the individual

- Identifies the individual’s:
  - Strengths and preferences
  - Clinical and support needs
  - Goals and outcomes

- Indicate the services and supports to be provided and costs to the consumer

- Identify risk factors and plans to minimize them
Person-Centered Service Plan

• Indicate who is responsible for monitoring the plan

• Be signed by all responsible for implementation

• Document modifications made to requirements for provider-owned or controlled residential settings

• Be reviewed/revised yearly or upon significant change or request of the individual