

HCBS FINAL RULE



HCBS COMPLIANCE

**TUMBOURA HILL SR. COMMUNITY
SERVICES LIAISON HCBS**

(209) 955-3397



FACT SHEET: HOME AND COMMUNITY BASED SETTING RULE



- **THE FEDERAL GOVERNMENT HELPS PAY FOR MOST OF THE SERVICES REGIONAL CENTERS PROVIDE TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES. IN MARCH 2014 NEW FEDERAL RULES BECAME EFFECTIVE DESCRIBING HOW HOME AND COMMUNITY-BASED SERVICES ARE PROVIDED.**
- **HOME AND COMMUNITY-BASED SETTINGS ARE PLACES WHERE INDIVIDUALS WITH DISABILITIES LIVE AND SPEND THEIR DAYS; FOR EXAMPLE, LICENSED COMMUNITY CARE FACILITIES AND OTHER RESIDENTIAL SETTINGS, WORK ACTIVITY PROGRAMS, AND DAY PROGRAMS. THE NEW RULES EXPLAIN WHAT THESE SETTINGS SHOULD BE LIKE.**
- **ALL SERVICES IN EVERY STATE MUST FOLLOW THE NEW RULES BY MARCH 2022. AFTER MARCH 2022, THE FEDERAL GOVERNMENT WILL NOT PROVIDE FUNDING FOR SERVICES THAT DO NOT MEET THE NEW RULES. ASSESSING ALL SERVICES AND SETTINGS AND MAKING NECESSARY CHANGES TAKES TIME. IN ORDER TO MEET THE 2022 DEADLINE THE WORK MUST BEGIN NOW.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- 1) ***PERSON-CENTERED PLANNING PROCESS.*** THE INDIVIDUAL WILL LEAD THE PERSON-CENTERED PLANNING PROCESS WHERE POSSIBLE. THE INDIVIDUAL'S REPRESENTATIVE SHOULD HAVE A PARTICIPATORY ROLE, AS NEEDED AND AS DEFINED BY THE INDIVIDUAL, UNLESS STATE LAW CONFERS DECISION-MAKING AUTHORITY TO THE LEGAL REPRESENTATIVE. ALL REFERENCES TO INDIVIDUALS INCLUDE THE ROLE OF THE INDIVIDUAL'S REPRESENTATIVE. IN ADDITION TO BEING LED BY THE INDIVIDUAL RECEIVING SERVICES AND SUPPORTS, THE PERSON-CENTERED PLANNING PROCESS:

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **I) INCLUDES PEOPLE CHOSEN BY THE INDIVIDUAL.**
- **II) PROVIDES NECESSARY INFORMATION AND SUPPORT TO ENSURE THAT THE INDIVIDUAL DIRECTS THE PROCESS TO THE MAXIMUM EXTENT POSSIBLE, AND IS ENABLED TO MAKE INFORMED CHOICES AND DECISIONS.**
- **III) IS TIMELY AND OCCURS AT TIMES AND LOCATIONS OF CONVENIENCE TO THE INDIVIDUAL.**
- **IV) REFLECTS CULTURAL CONSIDERATIONS OF THE INDIVIDUAL AND IS CONDUCTED BY PROVIDING INFORMATION IN PLAIN LANGUAGE AND IN A MANNER THAT IS ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES AND PERSONS WHO ARE LIMITED ENGLISH PROFICIENT, CONSISTENT WITH §435.905(B) OF THIS CHAPTER**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **V) INCLUDES STRATEGIES FOR SOLVING CONFLICT OR DISAGREEMENT WITHIN THE PROCESS, INCLUDING CLEAR CONFLICT-OF-INTEREST GUIDELINES FOR ALL PLANNING PARTICIPANTS.**
- **VI) PROVIDERS OF HCBS FOR THE INDIVIDUAL, OR THOSE WHO HAVE AN INTEREST IN OR ARE EMPLOYED BY A PROVIDER OF HCBS FOR THE INDIVIDUAL MUST NOT PROVIDE CASE MANAGEMENT OR DEVELOP THE PERSON-CENTERED SERVICE PLAN, EXCEPT WHEN THE STATE DEMONSTRATES THAT THE ONLY WILLING AND QUALIFIED ENTITY TO PROVIDE CASE MANAGEMENT AND/OR DEVELOP PERSON-CENTERED SERVICE PLANS IN A GEOGRAPHIC AREA ALSO PROVIDES HCBS. IN THESE CASES, THE STATE MUST DEVISE CONFLICT OF INTEREST PROTECTIONS INCLUDING SEPARATION OF ENTITY AND PROVIDER FUNCTIONS WITHIN PROVIDER ENTITIES, WHICH MUST BE APPROVED BY CMS. INDIVIDUALS MUST BE PROVIDED WITH A CLEAR AND ACCESSIBLE ALTERNATIVE DISPUTE RESOLUTION PROCESS.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **VII) OFFERS INFORMED CHOICES TO THE INDIVIDUAL REGARDING THE SERVICES AND SUPPORTS THEY RECEIVE AND FROM WHOM.**
- **VIII) INCLUDES A METHOD FOR THE INDIVIDUAL TO REQUEST UPDATES TO THE PLAN AS NEEDED.**
- **IX) RECORDS THE ALTERNATIVE HOME AND COMMUNITY-BASED SETTINGS THAT WERE CONSIDERED BY THE INDIVIDUAL.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

2) *THE PERSON-CENTERED SERVICE PLAN.* THE PERSON-CENTERED SERVICE PLAN MUST REFLECT THE SERVICES AND SUPPORTS THAT ARE **IMPORTANT FOR** THE INDIVIDUAL TO MEET THE NEEDS IDENTIFIED THROUGH AN ASSESSMENT OF FUNCTIONAL NEED, AS WELL AS WHAT IS **IMPORTANT TO** THE INDIVIDUAL WITH REGARD TO PREFERENCES FOR THE DELIVERY OF SUCH SERVICES AND SUPPORTS. COMMENSURATE WITH THE LEVEL OF NEED OF THE INDIVIDUAL, AND THE SCOPE OF SERVICES AND SUPPORTS AVAILABLE UNDER THE STATE'S 1915(C) HCBS WAIVER, THE WRITTEN PLAN MUST:

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **I) REFLECT THAT THE SETTING IN WHICH THE INDIVIDUAL RESIDES IS CHOSEN BY THE INDIVIDUAL. THE STATE MUST ENSURE THAT THE SETTING CHOSEN BY THE INDIVIDUAL IS INTEGRATED IN, AND SUPPORTS FULL ACCESS OF INDIVIDUALS RECEIVING MEDICAID HCBS TO THE GREATER COMMUNITY, INCLUDING OPPORTUNITIES TO SEEK EMPLOYMENT AND WORK IN COMPETITIVE INTEGRATED SETTINGS, ENGAGE IN COMMUNITY LIFE, CONTROL PERSONAL RESOURCES, AND RECEIVE SERVICES IN THE COMMUNITY TO THE SAME DEGREE OF ACCESS AS INDIVIDUALS NOT RECEIVING MEDICAID HCBS**
- **II) REFLECT THE INDIVIDUAL'S STRENGTHS AND PREFERENCES.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **III) REFLECT CLINICAL AND SUPPORT NEEDS AS IDENTIFIED THROUGH AN ASSESSMENT OF FUNCTIONAL NEED.**
- **IV) INCLUDE INDIVIDUALLY IDENTIFIED GOALS AND DESIRED OUTCOMES.**
- **V) REFLECT THE SERVICES AND SUPPORTS (PAID AND UNPAID) THAT WILL ASSIST THE INDIVIDUAL TO ACHIEVE IDENTIFIED GOALS, AND THE PROVIDERS OF THOSE SERVICES AND SUPPORTS, INCLUDING NATURAL SUPPORTS. NATURAL SUPPORTS ARE UNPAID SUPPORTS THAT ARE PROVIDED VOLUNTARILY TO THE INDIVIDUAL IN LIEU OF 1915(C) HCBS WAIVER SERVICES AND SUPPORTS.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **VI) REFLECT RISK FACTORS AND MEASURES IN PLACE TO MINIMIZE THEM, INCLUDING INDIVIDUALIZED BACK-UP PLANS AND STRATEGIES WHEN NEEDED.**
- **VII) BE UNDERSTANDABLE TO THE INDIVIDUAL RECEIVING SERVICES AND SUPPORTS, AND THE INDIVIDUALS IMPORTANT IN SUPPORTING HIM OR HER. AT A MINIMUM, FOR THE WRITTEN PLAN TO BE UNDERSTANDABLE, IT MUST BE WRITTEN IN PLAIN LANGUAGE AND IN A MANNER THAT IS ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES AND PERSONS WHO ARE LIMITED ENGLISH PROFICIENT, CONSISTENT WITH §435.905(B) OF THIS CHAPTER.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **VIII) IDENTIFY THE INDIVIDUAL AND/OR ENTITY RESPONSIBLE FOR MONITORING THE PLAN.**
- **IX) BE FINALIZED AND AGREED TO, WITH THE INFORMED CONSENT OF THE INDIVIDUAL IN WRITING, AND SIGNED BY ALL INDIVIDUALS AND PROVIDERS RESPONSIBLE FOR ITS IMPLEMENTATION.**
- **X) BE DISTRIBUTED TO THE INDIVIDUAL AND OTHER PEOPLE INVOLVED IN THE PLAN.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **XI) INCLUDE THOSE SERVICES, THE PURPOSE OR CONTROL OF WHICH THE INDIVIDUAL ELECTS TO SELF-DIRECT.**
- **XII) PREVENT THE PROVISION OF UNNECESSARY OR INAPPROPRIATE SERVICES AND SUPPORTS.**
- **XIII) DOCUMENT THAT ANY MODIFICATION OF THE ADDITIONAL CONDITIONS, UNDER PARAGRAPH (C)(4)(VI)(A) THROUGH (D) OF THIS SECTION, MUST BE SUPPORTED BY A SPECIFIC ASSESSED NEED AND JUSTIFIED IN THE PERSON-CENTERED SERVICE PLAN. THE FOLLOWING REQUIREMENTS MUST BE DOCUMENTED IN THE PERSON-CENTERED SERVICE PLAN**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

3) REVIEW OF THE PERSON-CENTERED SERVICE PLAN. THE
PERSON-CENTERED SERVICE PLAN MUST BE REVIEWED, AND REVISED UPON REASSESSMENT OF
FUNCTIONAL NEED AS REQUIRED BY §441.365(E), AT LEAST EVERY 12 MONTHS, WHEN THE INDIVIDUAL'S
CIRCUMSTANCES OR NEEDS CHANGE SIGNIFICANTLY, OR AT THE REQUEST OF THE INDIVIDUAL

WHO DOES HCBS FINAL RULE APPLY TO?

- **THE HCBS FINAL RULE APPLIES TO:**
- **RESIDENTIAL AND NON-RESIDENTIAL SETTINGS; INCLUDING CERTIFIED AND LICENSED HOMES**
- **DAY PROGRAMS, AND OTHER DAY-TYPE SERVICES**
- **EMPLOYMENT OPTIONS AND WORK PROGRAMS**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

4) HOME AND COMMUNITY-BASED SETTINGS. HOME AND COMMUNITY-BASED SETTINGS MUST HAVE ALL OF THE FOLLOWING QUALITIES, AND SUCH OTHER QUALITIES AS THE SECRETARY DETERMINES TO BE APPROPRIATE, BASED ON THE NEEDS OF THE INDIVIDUAL AS INDICATED IN THEIR PERSON-CENTERED SERVICE PLAN

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **1) THE SETTING IS INTEGRATED IN AND SUPPORTS FULL ACCESS OF INDIVIDUALS RECEIVING MEDICAID HCBS TO THE GREATER COMMUNITY, INCLUDING OPPORTUNITIES TO SEEK EMPLOYMENT AND WORK IN COMPETITIVE INTEGRATED SETTINGS, ENGAGE IN COMMUNITY LIFE, CONTROL PERSONAL RESOURCES, AND RECEIVE SERVICES IN THE COMMUNITY, TO THE SAME DEGREE OF ACCESS AS INDIVIDUALS NOT RECEIVING MEDICAID HCBS**

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HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **II) THE SETTING IS SELECTED BY THE INDIVIDUAL FROM AMONG SETTING OPTIONS INCLUDING NON-DISABILITY SPECIFIC SETTINGS AND AN OPTION FOR A PRIVATE UNIT IN A RESIDENTIAL SETTING. THE SETTING OPTIONS ARE IDENTIFIED AND DOCUMENTED IN THE PERSON-CENTERED SERVICE PLAN AND ARE BASED ON THE INDIVIDUAL'S NEEDS, PREFERENCES, AND, FOR RESIDENTIAL SETTINGS, RESOURCES AVAILABLE FOR ROOM AND BOARD.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **III) ENSURES AN INDIVIDUAL'S RIGHTS OF PRIVACY, DIGNITY AND RESPECT, AND FREEDOM FROM COERCION AND RESTRAINT.**
- **IV) OPTIMIZES, BUT DOES NOT REGIMENT, INDIVIDUAL INITIATIVE, AUTONOMY, AND INDEPENDENCE IN MAKING LIFE CHOICES, INCLUDING BUT NOT LIMITED TO, DAILY ACTIVITIES, PHYSICAL ENVIRONMENT, AND WITH WHOM TO INTERACT.**
- **V) FACILITATES INDIVIDUAL CHOICE REGARDING SERVICES AND SUPPORTS, AND WHO PROVIDES THEM.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **VI) IN A PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTING, IN ADDITION TO THE QUALITIES AT §441.301(C)(4)(I) THROUGH (V), THE FOLLOWING ADDITIONAL CONDITIONS MUST BE MET:**
- **A) THE UNIT OR DWELLING IS A SPECIFIC PHYSICAL PLACE THAT CAN BE OWNED, RENTED, OR OCCUPIED UNDER A LEGALLY ENFORCEABLE AGREEMENT BY THE INDIVIDUAL RECEIVING SERVICES, AND THE INDIVIDUAL HAS, AT A MINIMUM, THE SAME RESPONSIBILITIES AND PROTECTIONS FROM EVICTION THAT TENANTS HAVE UNDER THE LANDLORD/TENANT LAW OF THE STATE, COUNTY, CITY, OR OTHER DESIGNATED ENTITY. FOR SETTINGS IN WHICH LANDLORD TENANT LAWS DO NOT APPLY, THE STATE MUST ENSURE THAT A LEASE, RESIDENCY AGREEMENT OR OTHER FORM OF WRITTEN AGREEMENT WILL BE IN PLACE FOR EACH HCBS PARTICIPANT, AND THAT THE DOCUMENT PROVIDES PROTECTIONS THAT ADDRESS EVICTION PROCESSES AND APPEALS COMPARABLE TO THOSE PROVIDED UNDER THE JURISDICTION'S LANDLORD TENANT LAW.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **B) EACH INDIVIDUAL HAS PRIVACY IN THEIR SLEEPING OR LIVING UNIT: ~~(1)~~UNITS HAVE ENTRANCE DOORS LOCKABLE BY THE INDIVIDUAL, WITH ONLY APPROPRIATE STAFF HAVING KEYS TO DOORS. ~~(2)~~INDIVIDUALS SHARING UNITS HAVE A CHOICE OF ROOMMATES IN THAT SETTING. ~~(3)~~INDIVIDUALS HAVE THE FREEDOM TO FURNISH AND DECORATE THEIR SLEEPING OR LIVING UNITS WITHIN THE LEASE OR OTHER AGREEMENT. C)INDIVIDUALS HAVE THE FREEDOM AND SUPPORT TO CONTROL THEIR OWN SCHEDULES AND ACTIVITIES, AND HAVE ACCESS TO FOOD AT ANY TIME.**
- **D) INDIVIDUALS ARE ABLE TO HAVE VISITORS OF THEIR CHOOSING AT ANY TIME.**
- **E) THE SETTING IS PHYSICALLY ACCESSIBLE TO THE INDIVIDUAL.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **F) ANY MODIFICATION OF THE ADDITIONAL CONDITIONS, UNDER §441.301(C)(4)(VI)(A) THROUGH (D), MUST BE SUPPORTED BY A SPECIFIC ASSESSED NEED AND JUSTIFIED IN THE PERSON-CENTERED SERVICE PLAN. THE FOLLOWING REQUIREMENTS MUST BE DOCUMENTED IN THE PERSON-CENTERED SERVICE PLAN:**
- **~~(1)~~ IDENTIFY A SPECIFIC AND INDIVIDUALIZED ASSESSED NEED.**
- **~~(2)~~ DOCUMENT THE POSITIVE INTERVENTIONS AND SUPPORTS USED PRIOR TO ANY MODIFICATIONS TO THE PERSON-CENTERED SERVICE PLAN.**
- **~~(3)~~ DOCUMENT LESS INTRUSIVE METHODS OF MEETING THE NEED THAT HAVE BEEN TRIED BUT DID NOT WORK**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- ~~(4)~~ INCLUDE A CLEAR DESCRIPTION OF THE CONDITION THAT IS DIRECTLY PROPORTIONATE TO THE SPECIFIC ASSESSED NEED.
- ~~(5)~~ INCLUDE REGULAR COLLECTION AND REVIEW OF DATA TO MEASURE THE ONGOING EFFECTIVENESS OF THE MODIFICATION.
- ~~(6)~~ INCLUDE ESTABLISHED TIME LIMITS FOR PERIODIC REVIEWS TO DETERMINE IF THE MODIFICATION IS STILL NECESSARY OR CAN BE TERMINATED.
- ~~(7)~~ INCLUDE THE INFORMED CONSENT OF THE INDIVIDUAL.
- ~~(8)~~ INCLUDE AN ASSURANCE THAT INTERVENTIONS AND SUPPORTS WILL CAUSE NO HARM TO THE INDIVIDUAL

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- ***5) SETTINGS THAT ARE NOT HOME AND COMMUNITY-BASED.* HOME AND COMMUNITY-BASED SETTINGS DO NOT INCLUDE THE FOLLOWING:**
- **I) A NURSING FACILITY;**
- **II) AN INSTITUTION FOR MENTAL DISEASES;**
- **III) AN INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES;**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **IV) A HOSPITAL; OR**
- **V) ANY OTHER LOCATIONS THAT HAVE QUALITIES OF AN INSTITUTIONAL SETTING, AS DETERMINED BY THE SECRETARY. ANY SETTING THAT IS LOCATED IN A BUILDING THAT IS ALSO A PUBLICLY OR PRIVATELY OPERATED FACILITY THAT PROVIDES INPATIENT INSTITUTIONAL TREATMENT, OR IN A BUILDING ON THE GROUNDS OF, OR IMMEDIATELY ADJACENT TO, A PUBLIC INSTITUTION, OR ANY OTHER SETTING THAT HAS THE EFFECT OF ISOLATING INDIVIDUALS RECEIVING MEDICAID HCBS FROM THE BROADER COMMUNITY OF INDIVIDUALS NOT RECEIVING MEDICAID HCBS WILL BE PRESUMED TO BE A SETTING THAT HAS THE QUALITIES OF AN INSTITUTION UNLESS THE SECRETARY DETERMINES THROUGH HEIGHTENED SCRUTINY, BASED ON INFORMATION PRESENTED BY THE STATE OR OTHER PARTIES, THAT THE SETTING DOES NOT HAVE THE QUALITIES OF AN INSTITUTION AND THAT THE SETTING DOES HAVE THE QUALITIES OF HOME AND COMMUNITY-BASED SETTINGS.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- ***HOME AND COMMUNITY-BASED SETTINGS: COMPLIANCE AND TRANSITION:***
- **I) STATES SUBMITTING NEW AND INITIAL WAIVER REQUESTS MUST PROVIDE ASSURANCES OF COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION FOR HOME AND COMMUNITY-BASED SETTINGS AS OF THE EFFECTIVE DATE OF THE WAIVER.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **II) CMS WILL REQUIRE TRANSITION PLANS FOR EXISTING SECTION 1915(C) WAIVERS AND APPROVED STATE PLANS PROVIDING HOME AND COMMUNITY-BASED SERVICES UNDER SECTION 1915(I) TO ACHIEVE COMPLIANCE WITH THIS SECTION, AS FOLLOWS: A)FOR EACH APPROVED SECTION 1915(C) HCBS WAIVER SUBJECT TO RENEWAL OR SUBMITTED FOR AMENDMENT WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS REGULATION, THE STATE MUST SUBMIT A TRANSITION PLAN AT THE TIME OF THE WAIVER RENEWAL OR AMENDMENT REQUEST THAT SETS FORTH THE ACTIONS THE STATE WILL TAKE TO BRING THE SPECIFIC WAIVER INTO COMPLIANCE WITH THIS SECTION. THE WAIVER APPROVAL WILL BE CONTINGENT ON THE INCLUSION OF THE TRANSITION PLAN APPROVED BY CMS. THE TRANSITION PLAN MUST INCLUDE ALL ELEMENTS REQUIRED BY THE SECRETARY; AND WITHIN ONE HUNDRED AND TWENTY DAYS OF THE SUBMISSION OF THE FIRST WAIVER RENEWAL OR AMENDMENT REQUEST THE STATE MUST SUBMIT A TRANSITION PLAN DETAILING HOW THE STATE WILL OPERATE ALL SECTION 1915(C) HCBS WAIVERS AND ANY SECTION 1915(I) STATE PLAN BENEFIT IN ACCORDANCE WITH THIS SECTION. THE TRANSITION PLAN MUST INCLUDE ALL ELEMENTS INCLUDING TIMELINES AND DELIVERABLES AS APPROVED BY THE SECRETARY.**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **B)FOR STATES THAT DO NOT HAVE A SECTION 1915(C) HCBS WAIVER OR A SECTION 1915(I) STATE PLAN BENEFIT DUE FOR RENEWAL OR PROPOSED FOR AMENDMENTS WITHIN ON EFFECTIVE DATE OF THIS REGULATION, THE STATE MUST SUBMIT A TRANSITION PLAN DETAILING HOW THE STATE WILL OPERATE ALL SECTION 1915(C) HCBS WAIVERS AND ANY SECTION 1915(I) STATE PLAN BENEFIT IN ACCORDANCE WITH THIS SECTION. THIS PLAN MUST BE SUBMITTED NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS REGULATION. THE TRANSITION PLAN MUST INCLUDE ALL ELEMENTS INCLUDING TIMELINES AND DELIVERABLES AS APPROVED BY THE SECRETARY E YEAR OF THE**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **III) A STATE MUST PROVIDE AT LEAST A 30-DAY PUBLIC NOTICE AND COMMENT PERIOD REGARDING THE TRANSITION PLAN(S) THAT THE STATE INTENDS TO SUBMIT TO CMS FOR REVIEW AND CONSIDERATION, AS FOLLOWS:**

A)THE STATE MUST AT A MINIMUM PROVIDE TWO (2) STATEMENTS OF PUBLIC NOTICE AND PUBLIC INPUT PROCEDURES.

B)THE STATE MUST ENSURE THE FULL TRANSITION PLAN(S) IS AVAILABLE TO THE PUBLIC FOR PUBLIC COMMENT.

C)THE STATE MUST CONSIDER AND MODIFY THE TRANSITION PLAN, AS THE STATE DEEMS APPROPRIATE, TO ACCOUNT FOR PUBLIC COMMENT

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **IV) A STATE MUST SUBMIT TO CMS, WITH THE PROPOSED TRANSITION PLAN: A) EVIDENCE OF THE PUBLIC NOTICE REQUIRED.**
- **B) A SUMMARY OF THE COMMENTS RECEIVED DURING THE PUBLIC NOTICE PERIOD, REASONS WHY COMMENTS WERE NOT ADOPTED, AND ANY MODIFICATIONS TO THE TRANSITION PLAN BASED UPON THOSE COMMENTS**

HCBS SETTINGS FINAL RULE: 42 CFR 441.301 (C)

- **UPON APPROVAL BY CMS, THE STATE WILL BEGIN IMPLEMENTATION OF THE TRANSITION PLANS. THE STATE'S FAILURE TO SUBMIT AN APPROVABLE TRANSITION PLAN AS REQUIRED BY THIS SECTION AND/OR TO COMPLY WITH THE TERMS OF THE APPROVED TRANSITION PLAN MAY RESULT IN COMPLIANCE ACTIONS, INCLUDING BUT NOT LIMITED TO DEFERRAL/DISALLOWANCE OF FEDERAL FINANCIAL PARTICIPATION.**

STATEWIDE TRANSITION PLAN LINK

- [HTTPS://WWW.DHCS.CA.GOV/SERVICES/LTC/PAGES/HCBSSTATEWIDETRANSITIONPLAN.ASPX](https://www.dhcs.ca.gov/services/LTC/PAGES/HCBSSTATEWIDETRANSITIONPLAN.ASPX)

WHAT IS THE GOAL OF THE HCBS FINAL RULE?

- **TO ENHANCE THE QUALITY OF SERVICES PROVIDED BY:**
- **MAXIMIZING OPPORTUNITIES AND CHOICES FOR INDIVIDUALS**
- **PROMOTING COMMUNITY INTEGRATION BY MAKING SURE INDIVIDUALS HAVE FULL ACCESS TO THE COMMUNITY**
- **MAKING SURE INDIVIDUALS HAVE THE OPPORTUNITY TO WORK AND SPEND TIME WITH OTHER PEOPLE IN THEIR COMMUNITY WHO DO NOT HAVE DISABILITIES**
- **ENSURING INDIVIDUAL PREFERENCES ARE SUPPORTED AND RIGHTS ARE PROTECTED**
- **ESTABLISHING PERSON-CENTERED SERVICE PLANNING REQUIREMENTS, WHICH INCLUDES A PROCESS DRIVEN AND DIRECTED BY THE INDIVIDUAL TO IDENTIFY NEEDED SERVICES AND SUPPORTS**

- **ALL SETTINGS**
- **THE FINAL RULE REQUIRES THAT YOU CAN:**
- **SPEND TIME IN, AND BEING A PART OF, YOUR COMMUNITY**
- **WORK ALONGSIDE PEOPLE WHO DO NOT HAVE DISABILITIES**
- **HAVE CHOICES REGARDING SERVICES AND SUPPORTS, AND WHO PROVIDES THEM**
- **HAVE CONTROL OF YOUR SCHEDULE AND ACTIVITIES**

HCBS SETTINGS

RESIDENTIAL SETTINGS PROVIDER OWNED OR CONTROLLED



In addition to the requirements applicable to all settings, the Final Rule requires that you have:



Choice about your roommates



Privacy in your room, including a lock on your door



Control of your schedule and activities



The ability to have visitors of your choosing, at any time



Freedom to furnish and decorate your room



A lease or other legal agreement, protecting you from eviction

HOW WILL YOUR SERVICE AS A PROVIDER CHANGE?

- **IF YOU ARE A SERVICE PROVIDER WHO PROVIDES SERVICES TO MULTIPLE CONSUMERS IN THE SAME LOCATION, WE HAVE TO MAKE SURE THESE SERVICES DO NOT ISOLATE INDIVIDUALS FROM THE COMMUNITY. THE FINAL RULE SAYS THAT SETTINGS MUST BE INTEGRATED AND SUPPORT FULL ACCESS TO THE COMMUNITY. AS A PROVIDER, YOU MAY NEED TO MODIFY WHERE AND HOW YOUR SERVICE IS DELIVERED TO MEET THE HCBS FINAL RULE. POLICIES AND PROGRAM DESIGNS MAY NEED TO BE CHANGED AND TRAINING TO YOUR STAFF MAY BE NECESSARY TO ASSURE THEIR UNDERSTANDING OF THE NEW EXPECTATIONS.**

HCBS SETTING RULE #1

**THE SETTING IS INTEGRATED IN, AND
SUPPORTS FULL ACCESS OF INDIVIDUALS
RECEIVING MEDICAID HCBS TO THE
GREATER COMMUNITY TO THE SAME DEGREE
OF ACCESS AS INDIVIDUALS NOT RECEIVING
MEDICAID HCBS.**

HCBS SETTING RULE #2

- **THE SETTING IS SELECTED BY THE INDIVIDUAL FROM AMONG SETTING OPTIONS INCLUDING NON-DISABILITY-SPECIFIC SETTINGS AND AN OPTION FOR A PRIVATE UNIT IN A RESIDENTIAL SETTING.**

HCBS SETTING RULE #3

**THE SETTING ENSURES AN INDIVIDUAL'S RIGHTS OF
PRIVACY, DIGNITY AND RESPECT, AS WELL AS
FREEDOM FROM COERCION AND RESTRAINT.**

THE SETTING OPTIMIZES, BUT DOES NOT REGIMENT, INDIVIDUAL INITIATIVE, AUTONOMY, AND INDEPENDENCE IN MAKING LIFE CHOICES, INCLUDING BUT NOT LIMITED TO: DAILY ACTIVITIES, PHYSICAL ENVIRONMENT, AND WITH WHOM TO INTERACT.

HCBS SETTING RULE #4

HCBS SETTING RULE #5

**THE SETTING FACILITATES INDIVIDUAL
CHOICE REGARDING SERVICES AND
SUPPORTS, AND WHO PROVIDES THEM.**

HCBS SETTING RULE #6

IN PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTINGS:

**THE UNIT OR DWELLING IS A SPECIFIC
PHYSICAL PLACE THAT CAN BE OWNED,
RENTED, OR OCCUPIED UNDER A LEGALLY
ENFORCEABLE AGREEMENT BY THE
INDIVIDUAL RECEIVING SERVICES.**

EACH INDIVIDUAL HAS PRIVACY IN THEIR SLEEPING OR LIVING UNIT; INCLUDING DOORS LOCKABLE BY THE INDIVIDUAL, CHOICE OF A ROOMMATE IF SHARING A UNIT, AND THE FREEDOM TO FURNISH AND DECORATE THEIR SLEEPING OR LIVING UNITS WITHIN THE LEASE OR OTHER AGREEMENT.

HCBS SETTING RULE #7

HCBS SETTING RULE #8

**INDIVIDUALS HAVE THE FREEDOM AND
SUPPORT TO CONTROL THEIR OWN
SCHEDULES AND ACTIVITIES, AND HAVE
ACCESS TO FOOD AT ANY TIME.**

HCBS SETTING RULE #9

INDIVIDUALS ARE ABLE TO HAVE VISITORS OF THEIR CHOOSING AT ANY TIME.

HCBS SETTING RULE

#10

THE SETTING IS PHYSICALLY ACCESSIBLE TO THE INDIVIDUAL.



ASSESSING PROVIDER SETTINGS

- **ALL PROVIDERS WILL SOON BE REQUIRED TO COMPLETE A SELF-ASSESSMENT SURVEY THAT WILL HELP DETERMINE WHETHER OR NOT A SETTING COMPLIES WITH THE HCBS FINAL RULE OR IF MODIFICATIONS ARE NEEDED. FOR SETTINGS THAT REQUIRE CHANGES, THERE WILL BE TIME TO DEVELOP TRANSITION PLANS. TRAINING WILL BE PROVIDED ON THE SELF-ASSESSMENT PROCESS AND EXPECTATIONS, AND ADDITIONAL INFORMATION WILL BE POSTED ON THE DDS WEBPAGE.**

A close-up photograph of a red pushpin stuck into a map. The map shows various colored lines and text, though it is out of focus. In the background, a blue pushpin and a yellow pushpin are also visible, also on the map. The lighting is soft, and the colors are vibrant.

VMRC'S ROADMAP

- **IDENTIFY ONGOING RESOURCES**
- **INTERPRET REQUIREMENTS AS THEY ARISE AND FORMULATE PLANS FOR IMPLEMENTATION.**
- **PERSON CENTERED PLANNING**

**HOW DO WE GET
THERE?**



THE ICEBERG

that sinks organizational change

Visible Organizational Culture

“The way we say
we get things
done”



TRAININGS

- **ESTABLISH OUR EXPECTATIONS THROUGH TRAINING.**
- **IDENTIFY COMMUNITY GOALS THROUGH DISCUSSION.**



HCBS STATEWIDE TRANSITION PLAN

[HTTPS://WWW.DHCS.CA.GOV/SERVICES/LTC/PAGES/HCBSSTATEWIDETRANSITIONPLAN.ASPX](https://www.dhcs.ca.gov/services/LTC/PAGES/HCBSSTATEWIDETRANSITIONPLAN.ASPX)

**EDUCATE
YOURSELF
AND STAY
PLUGGED IN!!!**



PERSON-CENTERED THINKING TRAINING

**Angelique
Shear**

**ELIZABETH
DIAZ**

PERSON CENTERED PLANNING

AN OVERVIEW

**IT'S A PROCESS WHERE PEOPLE DECIDE WHAT'S IMPORTANT TO
THEM AND PLAN WHAT'S IMPORTANT FOR THEM.**

- **PRESUMES COMPETENCE**
- **FOCUS ON STRENGTHS**
- **BEHAVIOR IS COMMUNICATION**
- **EVERY PERSON CAN HAVE A MEANINGFUL LIFE IN THE COMMUNITY**
- **RESPECT CULTURAL DIVERSITY**

A GOOD PERSON CENTERED PLAN MUST START WITH PRE PLANNING...

- **THIS INCLUDES THE IMPORTANT DECISIONS THE PERSON NEEDS
TO MAKE BEFORE THE PCP MEETING**

THE PERSON DECIDES...

- **WHEN AND WHERE THEY WANT THE MEETING TO HAPPEN**
- **THE TIME OF THE MEETING**
- **WHAT THEY WANT TO DISCUSS AND WHAT THEY DO NOT WANT TO DISCUSS**
- **WHO DO THEY WANT TO INVITE**
- **WHO DO THEY CHOOSE AS THE FACILITATOR OF THE MEETING**
- **IS ANYONE OR ANYTHING NEEDED AT THE MEETING TO HELP THE PERSON FULLY PARTICIPATE**
- **ARE THERE ISSUES RELATED TO THE PERSONS CULTURE OR LANGUAGE FOR THE MEETING**

THE PLANNING MEETING...

THE PLANNING MEETING SHOULD BE AN EXCITING DAY FOR ANY PERSON

- **FACILITATORS LAYS OUR THE RULES THE PERSON HAS DECIDED AT THE BEGINNING OF THE MEETING**
- **ALL COMMENTS SHOULD BE MADE TO THE PARTICIPANT, NOT ABOUT THEM**
- **EVERYONE LISTENS TO WHAT THE PARTICIPANTS HOPES AND DREAMS ARE AND WORK WITH THE PARTICIPANT TO MAKE A PLAN TO HELP THEM REACH THEIR GOALS**
- **MEETING IS FOCUSES ON THE PERSONS STRENGTHS, HOPES, DREAMS AND WISHES, RATHER THAN WEAKNESSES**
- **THE PARTICIPANT LEADS THE MEETING TO THE BEST OF THEIR ABILITY WITH SUPPORT FORM THE FACILITATOR**

CONT...

- **FOR CHILDREN THE PARENTS LEADS THE MEETING WITH THE CHILD PARTICIPATING AS MUCH AS POSSIBLE**
- **THE FACILITATOR IS THERE TO CONCENTRATE THE DISCUSSION, NOT TO MAKE DECISION FOR THE PERSON**
- **MANY PLANNING MEETINGS START WITH ASKING THE CIRCLE OF SUPPORT TO INTRODUCE THEMSELVES AND TELL THE PARTICIPANT SOMETHING THEY LIKE AND ADMIRE ABOUT THEM**
- **GET TO KNOW THE PARTICIPANT OR LEARN ABOUT THEM**
- **GO OVER GOALS OF THE PARTICIPANT**
- **THE MEETING WILL TURN INTO TALKING AND BRAINSTORMING ABOUT SPECIFIC STEPS TO WORK TOWARDS THE PARTICIPANT GOALS**

HOW TO USE A PERSON CENTERED PLAN

- **THE PCP IS NOW A LIVING DOCUMENT THAT EXPLAIN WHAT IS IMPORTANT FOR THE PERSON AND WHAT IS IMPORTANT TO THE PERSON**
- **THE PLAN NEEDS TO BE FOLLOWED**
- **THE PLAN CAN LOOK DIFFERENT FOR EVERYONE**
- **THE PLAN SHOULD BE SHARED WITH OTHERS**
 - **SCHOOLS**
 - **SUPPORT WORKERS**
 - **SERVICE PROVIDERS**
 - **DOCTORS**
 - **THERAPIST**
 - **FAMILIES/FRIENDS**

VMRC

- **ONE PAGE PROFILES**
- **IPP'S NEW FORMAT**
- **PCT TRAINING = CEU!!!!!!**
 - **MARCH 25-26 MODESTO**
 - **MAY 14-15 STOCKTON**
 - **JULY 14-15 SAN ANDREAS**
 - **SEPTEMBER 21-22 STOCKTON**
 - **NOVEMBER 3,5,10,12 MODESTO**

CALIFORNIA SELF DETERMINATION PROGRAM

AN OVERVIEW

GOVERNOR JERRY BROWN SIGNED SB468 INTO LAW, OCTOBER 2013

- **IT TOOK ABOUT 5 ½ YEAR TO GET THE PROGRAM STARTED**
- **IT'S STARTING WITH A 3 YEAR SOFT ROLL OUT**
 - **2500 PARTICIPANTS STATEWIDE**
- **DDS SELECTED THE PARTICIPANTS OCTOBER 1, 2018**
- **JUNE 5, 2021 THE PROGRAM WILL BE AVAILABLE TO ALL ELIGIBLE INDIVIDUALS ON A VOLUNTARY BASIS**

ELIGIBILITY

- **MUST BE A REGIONAL CENTER CONSUMER**
- **OVER THE AGE OF 3**
- **LIVES IN THE COMMUNITY**
 - **NOT ELIGIBLE IF YOU LIVE IN A LICENSED LONG TERM HEALTH CARE FACILITY (ICF OR SNF)**
- **IF YOU MOVE TO ANOTHER REGIONAL CENTER THE PROGRAM WILL FOLLOW**

5 PRINCIPLES OF SELF DETERMINATION

- **FREEDOM**
- **AUTHORITY**
- **SUPPORT**
- **RESPONSIBILITY**
- **CONFIRMATION**

HYPOTHESIS/GOALS:

- **FOR PEOPLE TO GAIN CONTROL**
- **LIVES TO BE IMPROVED**
- **COSTS TO DECREASE**

WHAT'S NEXT AFTER BEING SELECTED

- **MUST ATTEND AN ORIENTATION**
- **HAVE OR CREATE A PERSON CENTERED PLAN**
- **HAVE A PERSON CENTERED IPP**
- **AGREE ON THE INDIVIDUAL BUDGET**
- **IDENTIFY THE FINANCIAL MANAGEMENT SERVICE PROVIDER (FMS)**
 - **THE ONLY REQUIRED VENDORED SERVICE**
- **DEVELOP A SPENDING PLAN**