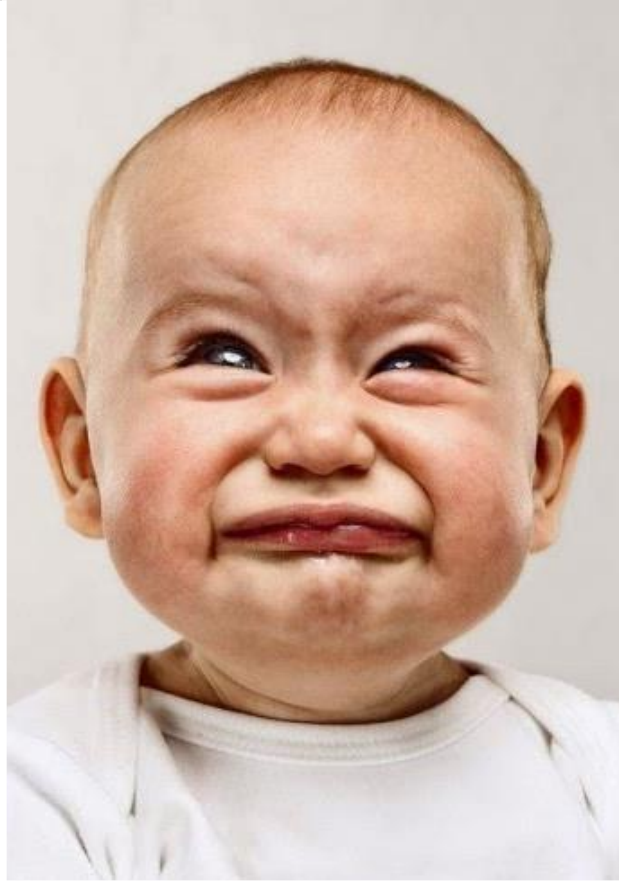




# THE CMS HCBS SETTINGS RULE: PERSON-CENTERED SUPPORTS & SERVICES DURING A PANDEMIC

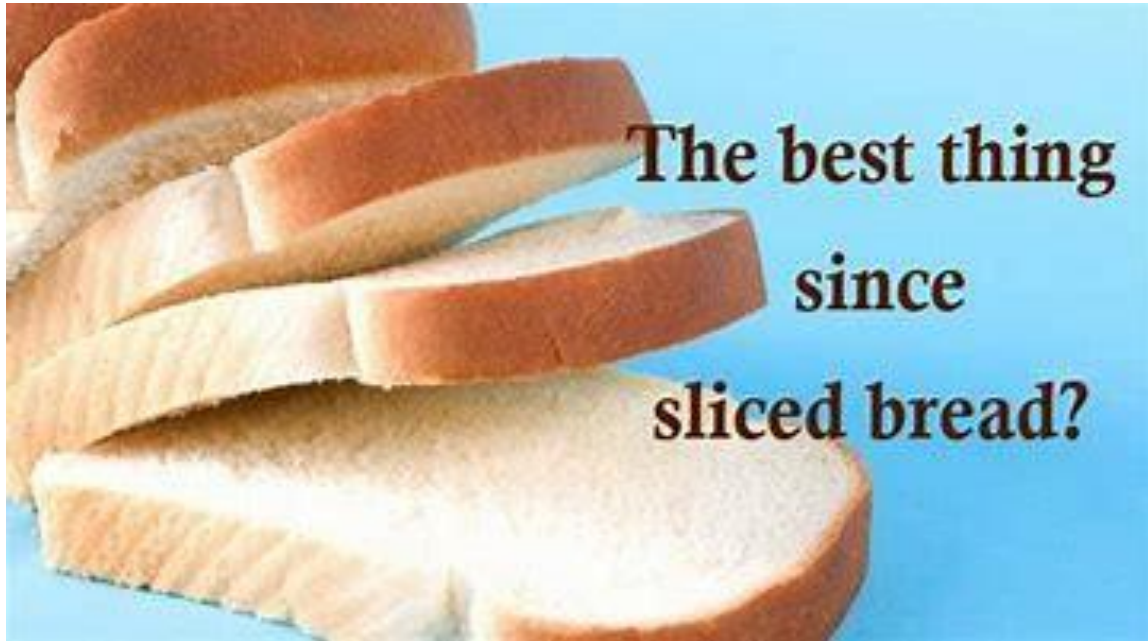
LAURA BRACKIN, PHD



# The CMS HCBS Settings Rule

# Is The Rule A Good Thing?

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# Agenda

What's New With the CMS  
HCBS Settings Rule



Strategies for Compliance –  
Pre-pandemic



Person-Centered Services  
During a Pandemic (Remote)



Questions and Answers

# What's New With the CMS HCBS Settings Rule?

1. Compliance Deadline
2. Heightened Scrutiny
3. Isolated Settings
4. Private Residences



What's  
new?



# 1. Compliance Deadline

- Effective Date: March 17, 2014
- Original Compliance Date: March 17, 2019
- Revised Compliance Date: March 17, 2022

And now.....

- Revised Compliance Date: **March 17, 2023**

**NOTE: States can set earlier deadlines.**

Source: CMS letter to State Medicaid Directors,  
July 14, 2020.



## 2. Heightened Scrutiny

- **State Determination of Compliance** – No need to submit for heightened scrutiny if an isolating setting implemented remediation strategies that brought the setting into compliance **by July 1, 2021**.
- **Deadline for Heightened Scrutiny** - Can be submitted to CMS through October 31, 2021 (an additional year).
  - Unless in same building as public or private institution, or on grounds of or adjacent to public institution – must be submitted by March 31, 2021.

Source: CMS letter to State Medicaid Directors, with FAQ, March 22, 2019



### 3. “Isolating Settings”

- “Isolating Settings” - not in compliance
- Revised CMS Guidance:
  - Removes language referring to specific types of “isolating settings” (e.g. farmsteads, settings located in rural areas). These settings should not be presumed to be isolating.
  - Clarifies what constitutes an “isolating setting”

Source: CMS letter to State Medicaid Directors, March 22, 2019





# What is an “Isolating Setting”?

- *Due to the design or model of service provision, individuals have limited, if any, opportunities for integration in and with the broader community;”*
- *The setting restricts beneficiary choice to receive services or to engage in activities outside of the setting; OR*
- *The setting is located separate and apart from the broader community **AND** does not facilitate opportunities to access the broader community and participate in community services, consistent with the beneficiary’s PC service plan.*



## 4. Private Residences

- Clarified that Settings Rule only applies to settings where individual receives Medicaid HCBS.
- Important RIGHTS issue.

Source: CMS letter to State Medicaid Directors – March 22, 2019)





# Is The Rule Here to Stay?

- *"The deadline keeps being extended. Does that mean that the rule will go away?"*
- *"If A new administration comes into office? Do you think they will they get rid of the HCBS Settings rule?"*
- *"I can't bring people out in the community because of the pandemic. So I can't be in compliance with the CMS HCBS Settings Rule. If this pandemic lasts much longer, then they will have to do away with the Rule, won't they?"*



# Three Things to Remember About the CMS HCBS Settings Rule

1. The Rule is about the PERSON
2. The Rule is about OUTCOMES.
3. The Rule is about EXPERIENCES.





1. THE RULE  
IS ABOUT  
THE PERSON  
(PC PLAN &  
PC PROCESS)

EXAMPLE:  
HARRY'S  
"PCISP"



## 2. The Rule is About Outcomes

- An outcome is “the way things turned out.”
- Can have several outcomes along the path to a goal.
- Example: Long term goal for completing high school starts with....kindergarten.)
- ALL outcomes should be related to a goal.
- Outcomes can be proof of progress.
- Outcomes also provide an opportunity to evaluate what is working and not working.



# All People Grow and Change



- Interests
- Abilities
- Attitudes
- Beliefs
- Experiences

Thus...

- Goals and Desired Outcomes
- NOTE: A sign of a poor plan....is one that never changes. And one where outcomes are never achieved.

### 3. The Rule is About Experiences

- Choices
- Rights
- Opportunities for Integration  
(Community Integration)



# Community Integration – A Struggle Even Before the Pandemic

Where is the confusion?

- Definition of community
- Kinds of communities
- Levels of engagement





# Definition of Community


## Geographical



## Feeling of Fellowship







You don't need to GO  
into the community to  
BE part of a community.

## Example

“Don’t people need to BE at places in “the (physical) community” in order to make friends?”



# Kinds of Communities

- Physical
- Online
- Religious
- Volunteer
- Sporting
- School
- Political
- Interest-based



# What does CMS say?

Provide opportunities for individuals to:

1. Seek employment and work in competitive integrated settings
2. Engage in community life

***“Opportunity” is:***

***“A set of circumstances that makes it possible to do something.”***



# Our Role

- “Provide opportunities for individuals to ENGAGE in community Life.”
- Engage: “To do or take part in something.”
  - Levels of engagement
  - Barriers to engagement





# Example: Levels of Engagement

- Wear sports clothing
- Keep statistics
- Collect sport-related items
- Decorate home with sport-related items
- Attend home games
- Attend out of town games
- Attend tail-gating parties
- Host parties at home
- Visit campus
- Talk to others about the team





# Barriers to Engagement

- Our role is to identify the barriers to engagement (Person –Centered)
- Identify and assist with solutions to barriers
- Facilitate community engagement (person-centered) – to the extent that the person chooses.
- Example:
  - Knowledge/Information (e.g. Game schedule; how to buy tickets; where to buy team shirts and other items; who else is interested in the team, etc.)
  - Transportation
  - Finances
  - Support





# Strategies for HCBS Compliance: Pre- Pandemic



## COMMON THEMES

- Real PCP
- Choice and Control
- Variety
- Flexibility
- Individualized

**....All focused on the person!**





## OFFER MORE CHOICE AND CONTROL

- Individuals choose what activities they do (e.g. they plan their week).
- Individuals choose where to meet (library, coffee shop, etc.).
- Individuals choose what they want to learn (e.g. Personal growth and development program).
- Individuals choose how to spend their money.





## Choice in Groups?

1. Provider identifies the interests of individuals and then create groups according to interests
2. An existing group chooses the activities they want to do together.
3. Provider hears about an interest and finds out if anyone wants to sign up to pursue that interest



## Individualized and Strengths-Based

- Strengths-based, as opposed to deficit-based approaches (e.g. shifting from assessment tools to discovery approaches)
- Customized Employment



## INDIVIDUALIZED OPPORTUNITIES

- Unique volunteer opportunities (starts with the person)
- Individualized focus within a program or curriculum (computers, transportation, etc.)





Individual Focus  
within a Group  
Structure



# Shift Group Work to Individual Work

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Microenterprise





Add Variety

- Expand services (day habilitation, employment, etc.)
- Expand options within each service

# Example: Expanding Employment Options

- Soft skills training in facility –based setting
- Discovery
- Exploration – visit and discuss
- Guest speakers
- Job shadowing
- Informational interviews
- Volunteering
- SE-group
- SE – Individual
- Customized employment
- Micro-enterprises
- Self-employment
- Traditional CIE





# Examples: Expanding Locations

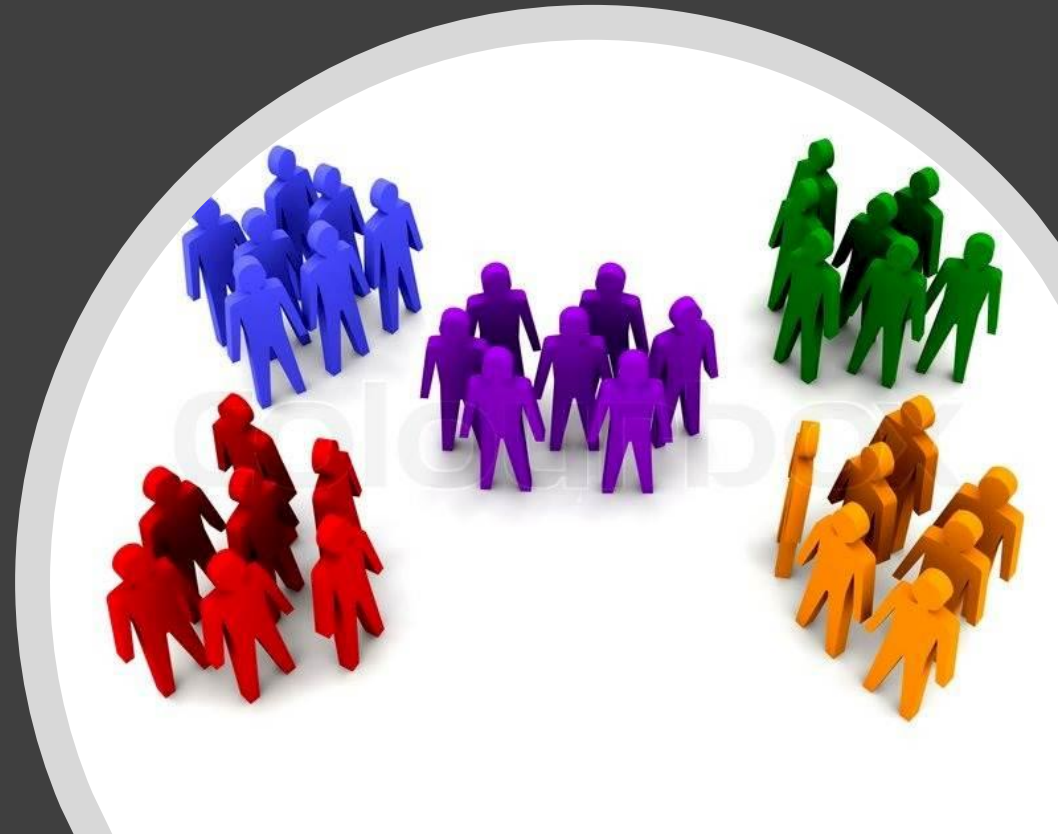
- Inside and outside
- Multiple locations (meet at library, coffee shop, etc.)
- Shredding contract work moved to employer site
- \*\*\*AND Now expanding to remote/virtual options





# Add Flexibility

- People aren't limited to the same group with the same people (it can change based on interests)
- Every plan has a plan B (person chooses to "opt out")



# Examples: Flexibility

- Allow for back up plans (for when an individual chooses to “opt out” of an activity)
- Allow staff to deviate from schedule when it is based on the person’s interests



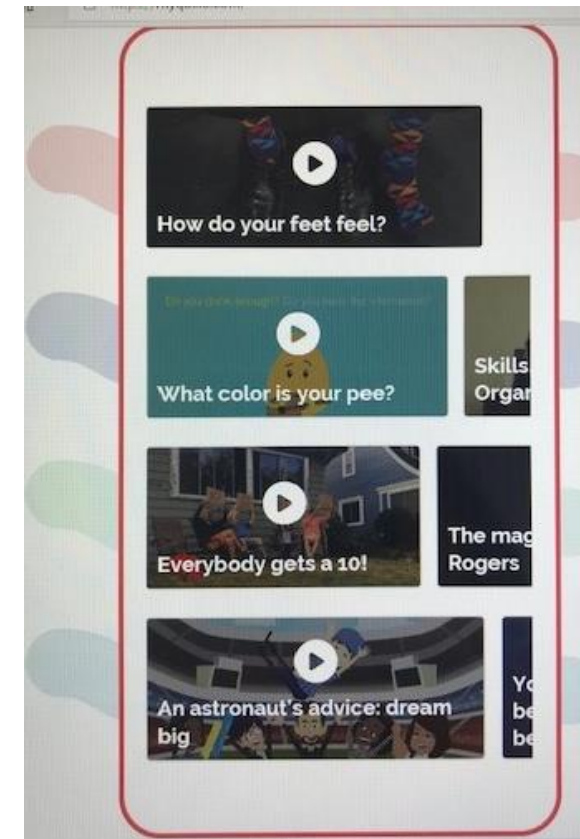
# New Tools and Processes

- Interests to Engagement Tool, LifeCourse Tool, PCT Tools, etc.
- Visual resumes/profiles
- YouTube Videos
  - Communicate with staff in the field
  - Promote the individual to potential employers
- New processes for discovery



# Quillo

An innovative mobile app and communication platform that delivers engaging, inspiring, and educational 60-second content to all of your staff, strengthening your culture, and making you and your team more effective in what you do.



Quillo - New Technology for  
Building Capacity of Staff





Develop a Community  
Database

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# Online Communities

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# Survey of Staff and Board Members to Discover their Interests

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natural  
Strengths  
abilities  
gifts  
Qualities  
Core talents

## Trends in Discovery

- Person is primary; others who know the person are secondary
- Discovery viewed as an ongoing process where Information is collected over time (not a “one and done”)
- Information gathered in a variety of natural, inclusive settings
- Focus on interests
- Focus on strengths (and uniqueness) of the person





# Discovery Strategies

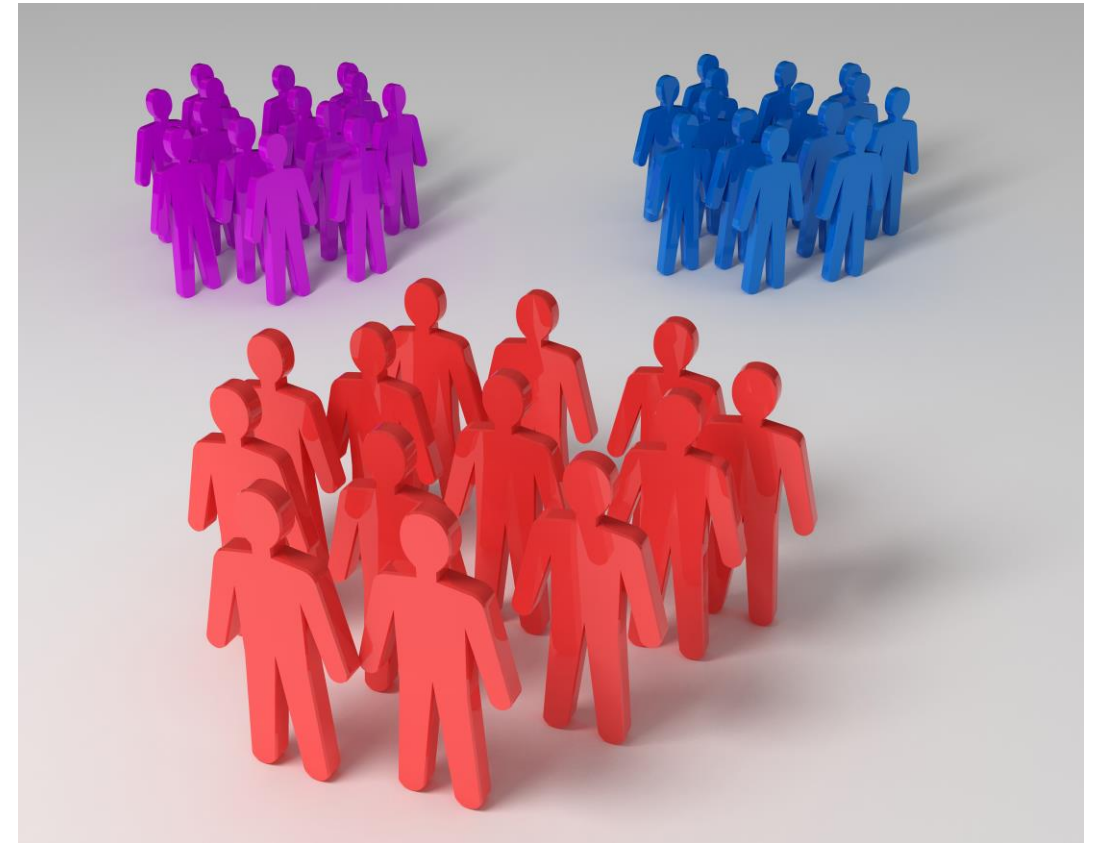
- New Focus: on the person, not the program
- New Type of Employees: Choice and Integration Specialists
- Change Job Descriptions: include discovery
- Embed Strategies into the Day: question of the day, and/or topic of the day
- Exposure: Staff empowered to share interests & passions

Discovery  
Through  
Exposure:

---

Sharing  
Passions





# Example: Create Interests Database



# Solicit Information on Job Applications

- Solicit information on job applications regarding skills, interests/passions, etc.
- Use information to better match staff with individuals.
- Use information for exposure purposes.







# Exposure Strategies

- Visual - Pictures
- Discussions (planned, but informal)
- YouTube videos
- Community members – sharing
- Staff and board members - sharing
- Facilitated opportunities to experience (in a variety of locations)



# Delivering Person- Centered Services During a Pandemic

# It's the Same....but Different

- Same - Person-Centered Thinking Approach: focused on what is important to the person and what is important for the person.
- Different - Format for assessing, providing supports and services, and monitoring





# Remote Services: Operating in a New Environment



# What Remote Service Options Are Allowed Under HCBS?

- Standard:
  - Waiver of face-to-face requirements
  - Virtual assessments
- Varies by state
- Ever evolving





Google Forms



# Platforms



Google Classroom –  
Sharing Schedules



Zoom – Connecting



Google Forms –  
Recording Attendance  
and daily feedback



SOURCE – SHUTTERSTOCK

# What Works: Preparing Individuals for Remote Supports

- Introductory letter and FAQ Sheet
- Registration form to assess access to technology/wifi & comfort level
- Welcome email with tutorial video
- Optional “test” Zoom calls
- Follow up phone calls to address remaining hurdles
- Ongoing tech support





# What Works: Training DSPs



Group Zoom Training – familiarize DSPs with using Zoom as a “host”



1:1 Follow Up Training (if needed)



Activity Shadowing – at least 2 days before going solo



DSP Handbook:

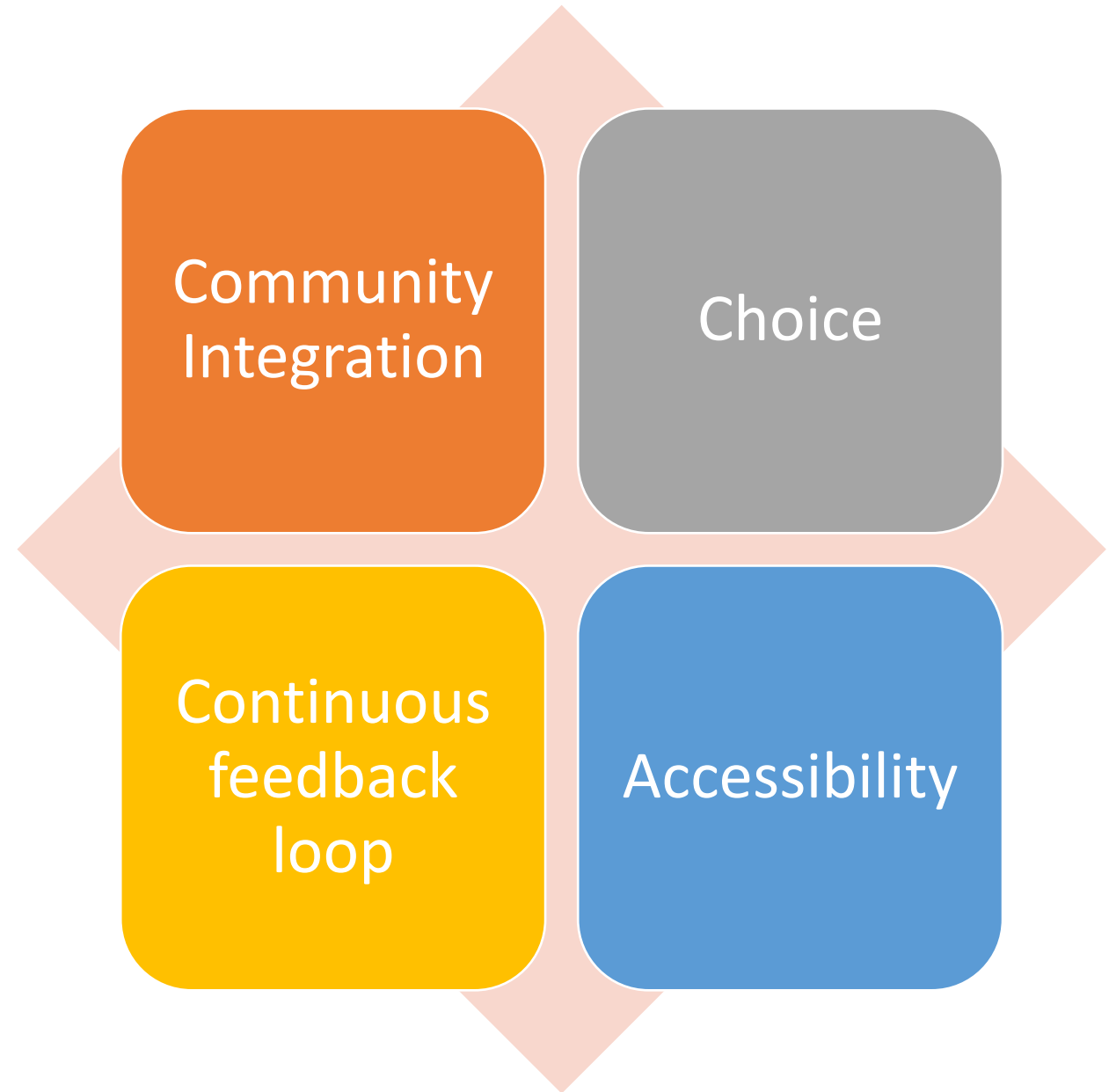
Zoom skills – step by step

Overview of forms

Activity ideas

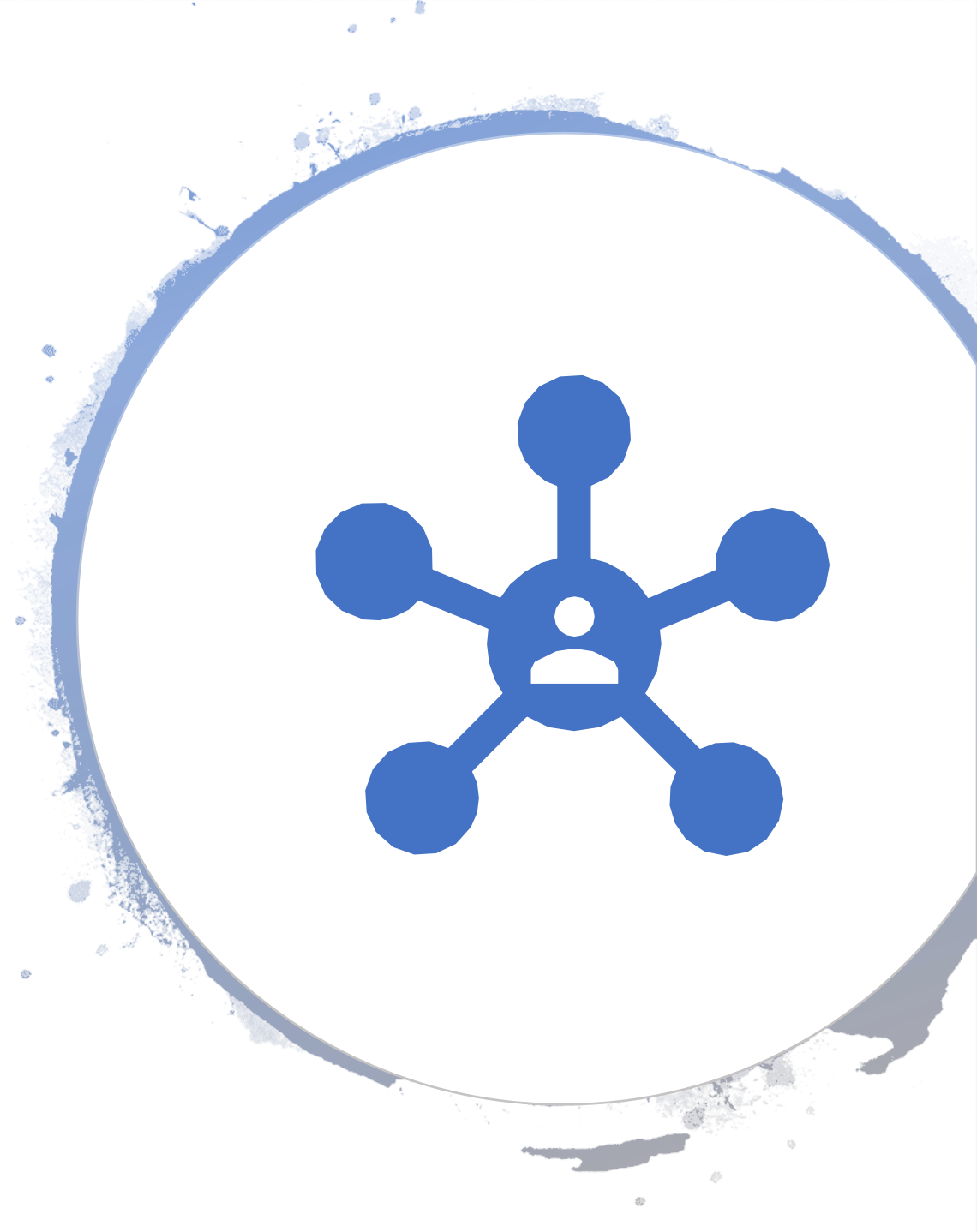


# What Works: Program Focuses



# Program Focus: Community Integration

- Reach out to community partners to identify which activities could translate to a virtual setting
- Expand requests to new community partners
- Community partners co-lead activities with a DSP present to help facilitate.





Example:  
Community  
Partners

So many  
possibilities!!!

YMCA

Community  
wellness centers

Music therapists

Occupational  
therapists

Local  
bands/musicians

Local dance  
companies

Local recreation  
department

# Program Focus: Choices

- All DSPs and participants join the same Zoom chat
- DSPs present activity options
- Participants indicate their preferences and are then split into breakout rooms based on their choice
- Breakout rooms are closed at the end of the activity and participants rejoin the main Zoom.



# Program Focus: Feedback Loop

- Each day ends with a small group check in chat
- Group discusses:
  - Favorite activities from the day
  - Activities they'd like to do in the future
- Allows for individuals to learn from others
- Allows for continuous quality improvement
- Allows for more person-centered services



# Program Focus: Accessibility



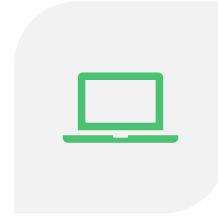
MAILING ACTIVITY  
SUPPLIES TO  
PARTICIPANTS



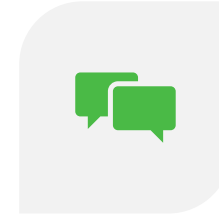
USING CLOSED CAPTIONS  
OR SIGN LANGUAGE



USING PLAIN LANGUAGE



USING TRANSLATE  
FEATURES



OFFERING TWO-ITEM  
VISUAL OPTIONS



OBTAINING DEVICE  
AND/OR INTERNET  
ACCESS FOR INDIVIDUALS



# Types of Activities

- Socialization
- Health and Wellness
- Skill Acquisition
- Group-Based Therapy

## Socialization

- Live sing-alongs
- Virtual dance parties
- Home scavenger hunt
- Fashion shows
- Charades
- Pictionary
- Bingo
- Lip sync competitions



## Health & Wellness

- Zumba
- Yoga
- Cardio Dance Class
- Chair Exercises
- Nutrition Education



# Skill Acquisition

- Reading Club
- Creative Story Writing
- Poetry Writing
- Budget Creation
- ASL Class
- Work Readiness





# Group Based Therapy

- Music Therapy
- Occupational Therapy





# Questions and Answers

# What to do when safety violates choice?

Example: Person does not want to wear a mask or does not want to social distance.

Strategies:

- **Inform/Educate** (Good choices start here.)
- **Look for Root Cause** (e.g. Is it because the person forgets? Feels uncomfortable? Is lonely?)
- **Do Person-Centered Problem Solving** (e.g. teach “arm’s length”, try different mask; connect with family via zoom) based on what is important TO the person.



# What is the best methodology to foster integration with a person who typically self-sequesters and avoids interactions with others?

- Interactions should be person-centered (type, frequency, length, etc.) and reflected in the PC plan.
- Preferences should be respected.
- Additional discovery may be needed:
  - **Environment:** Is the person being overstimulated?
  - **People:** Does the person not like who they are interacting with?
  - **Activity:** Is the person not interested in the activity surrounding the interaction? (e.g. dance party, coffee shop, virtual game)





# What Does the Future Hold for Remote Supports?

- Lots of unknowns
  - Pandemic
  - Different technology/options being discovered/developed
- A good probability:
  - Mixture of physical and virtual (smaller groups)
  - More HCBS than institutional
  - Continued emphasis on PC practices
  - More emphasis on value-based payments – related to quality PC outcomes





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