



HCBS Statewide Transition Plan Update

Aging Services, Medical Services, and Developmental Disabilities

November 16 & 17 2022



Health & Human Services

Agenda

Introduction to the Regulation

Setting Requirements

Person-Centered Service Plan
Requirements

Community Integration

Examples

Statewide Transition Plan

Update on the Regulation



Overview



A final rule by Centers for Medicare and Medicaid (CMS 2249F) was issued in January 2014 for home and community-based services (HCBS) provided through Medicaid waivers. The new regulations:

- Provided requirements of a home and community-based setting
- Defined person-centered planning requirements
- Required states to develop transition plans for bringing all HCBS settings into compliance
- Ensures that HCBS waiver participants can enjoy the benefits of living, working, and participating in the most integrated setting.
- Settings are more about the nature and quality of individual's experiences, not only about buildings where the services are being delivered.
- People have maximum choice and control over their lives
- Rights are respected and should be same as any citizen

Definition of Settings

HCBS Settings Include:

- Homes
- Apartment Units
- Day Programs
- Work Locations



Cannot be Provided in:

- Nursing Facility
- Institution for mental diseases
- Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- Hospital
- Any setting that has “institutional” characteristics or isolates from the broader community



HCBS Requirements are about:

Physical environment where people live & work

Individual experiences & preferences



HCBS Requirements:



People participate & live in the community

- Full access & integrated



Settings selected by the person from among multiple setting options

- Includes living options of people without disabilities



People have choice of services & supports



People choose their roommate(s)

HCBS Requirements:



People's rights are respected & promoted



People make their own daily/life choices, develop their schedules, & have independence



People are free from restraint & not pressured into choices



People have privacy & dignity

HCBS Requirements:



People decorate & furnish their home as they wish



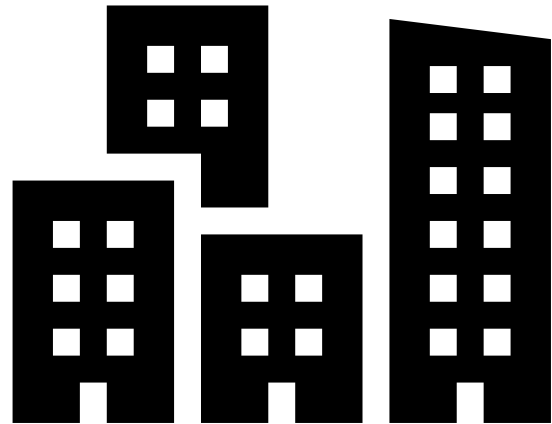
People have access to food & personal items at any time



People have visitors at any time



People control their own money & have opportunities to get paid at least minimum wage



Provider Owned & Controlled Residential Settings

- People have a legally enforceable agreement or lease
 - Landlord-tenant responsibilities
 - Provides protections from eviction according to state law
 - Cannot contain “house rules”
 - Lease similar to any lease agreement in the community
- People have lockable bedroom doors for privacy

Person-Centered Planning Requirements

- Individual to leads the process
- Includes selected family members, friends, & others
- Reflects strengths, cultural considerations preferences, goals & desired outcomes
- Reflects support needs & mitigate risks, including emergency back-up plans
- Reflect paid & unpaid services, including natural supports
- Provide necessary information to make informed decisions
- Be understandable and in plain language

*Taken from Charting the LifeCourse, Integrated Supports Star

PERSONAL STRENGTHS & ASSETS

Skills, personal abilities, knowledge or life experiences;
Strengths, things a person is good at or others like and admire;
Assets, personal belongings and resources

RELATIONSHIPS

Family and others that love and care about each other;
Friends that spend time together or have things in common;
Acquaintances that come into frequent contact but don't know well

TECHNOLOGY

Personal technology anyone uses;
Assistive or adaptive technology with day to day tasks;
Environmental technology designed to help with or adapt surroundings

COMMUNITY BASED

Places such as businesses, parks, schools, faith-based communities, health care facilities;
Groups or membership organizations;
Local services or public resources everyone uses

ELIGIBILITY SPECIFIC

Needs based services based on age, geography, income level, or employment status;
Government paid services based on disability or diagnosis, such as special education or Medicaid



Person-Centered Planning Requirements

- If people are not able to experience all afforded rights due to health/safety document:
- The specific and individualized need
- Positive interventions and other less restrictive methods that were prior but not successful
- Include collection and review of data to measure if the modification should continue or be discontinued
- Time limits and periodic reviews
- Informed consent
- Assurance that interventions will cause no harm to the person

*Also referred to modifications or right restrictions

Community Integration

Community integration- assimilating and welcoming – people with disabilities into the larger community

- Allows person with disabilities to **fully participate** in life at the same level as **nondisabled individuals**
- Need to find **meaningful** ways to engage individuals in activities **outside of the facility, home, etc.**
- Activities should be **person-centered** and based on the **needs and interests** of the **individual**.
 - Once per week bus trip is not enough



Community Integration

Consider local activities

- Parades, farmer's market, craft fairs, car shows, high school sporting events, church programs
- Participate in meal serving at a local event
- Attending an art class, petting zoo, go to the library to check out books, go to the coffee shop once per week
- Local schools often have plays, sporting events, fundraisers, craft fairs, and other activities people may enjoy
- **Partner with what is already available in your community**



Community Integration

What to do for those who become overstimulated or anxious in crowds:

- Go to an event when it first opens, before it becomes crowded
- Meet 1:1 with an expert or another person that shares their interest
- Shop smaller stores
- Check for sensory friendly options in the community
- Join small group activities (e.g., animal shelters, food pantries, homeless shelters to serve meals, etc.)
- Bring calming items with
- Visit in smaller time increments



Community Integration

It takes staff and preplanning to make events like this happen but that is the expectation of true community integration and recreational programs.

- Not every event is right for everyone. Activities should be based on the interests and needs of each person.
- Volunteers and family may help with these activities.
- Plans should address personal preferences, including modifications based on people's comfort level, needs, etc.



Examples

Do NOT Meet Requirements

- Only go into the community with a group as a “group trip” or outing
- Entire day spent at day program location
- All activities are scheduled by staff with out individual input
- Can only shower on certain days or times
- If chores not done, no other activities that day
- Personal schedules are posted

Do Meet Requirements

- Individualized activities in community based on personal interest
- Activities also include social or volunteer activities in coffee shops, library, senior center, etc.
- People are involved in choosing their activities
- Can choose to shower when they want
- May choose not to wash supper dishes that night, but still go out with friends
- Personal schedules are kept in a binder or own private space/bedroom

Examples

Do NOT Meet Requirements

- Scheduled meal, bed, & waking times
- Set menus & people are not part of the meal planning
- No food in bedrooms
- All checkbooks kept in staff office or locked
- Home or room is already furnished & decorated

Do Meet Requirements

- Choose when wake up, go to bed, have meals
- If menus are developed people have input, based on food preferences, or other food choices available
- Eat food in living room, or other areas & not confined to the kitchen
- Keep their checkbooks & money in their private space
- Can furnish home/room with personal items

Examples

Do NOT Meet Requirements

- Does not have own key to bedroom/house
- No area to make private phone calls or have to ask to use phone
- Staff talking about you in front of others
- House rules-where provider implement “blanket” procedures for everyone
- Being told can only make plan changes at annual meeting

Do Meet Requirements

- Have own key, code, fab, etc. to use
- Use of a cordless phone, option to have cell phone, ability to take phone to private area
- Staff conduct conversations in a separate room or other private manners
- Procedures are based on individual need or roommate discussion/agreement
- Plans can be updated or requested anytime by the person & guardian

Statewide Transition Plan

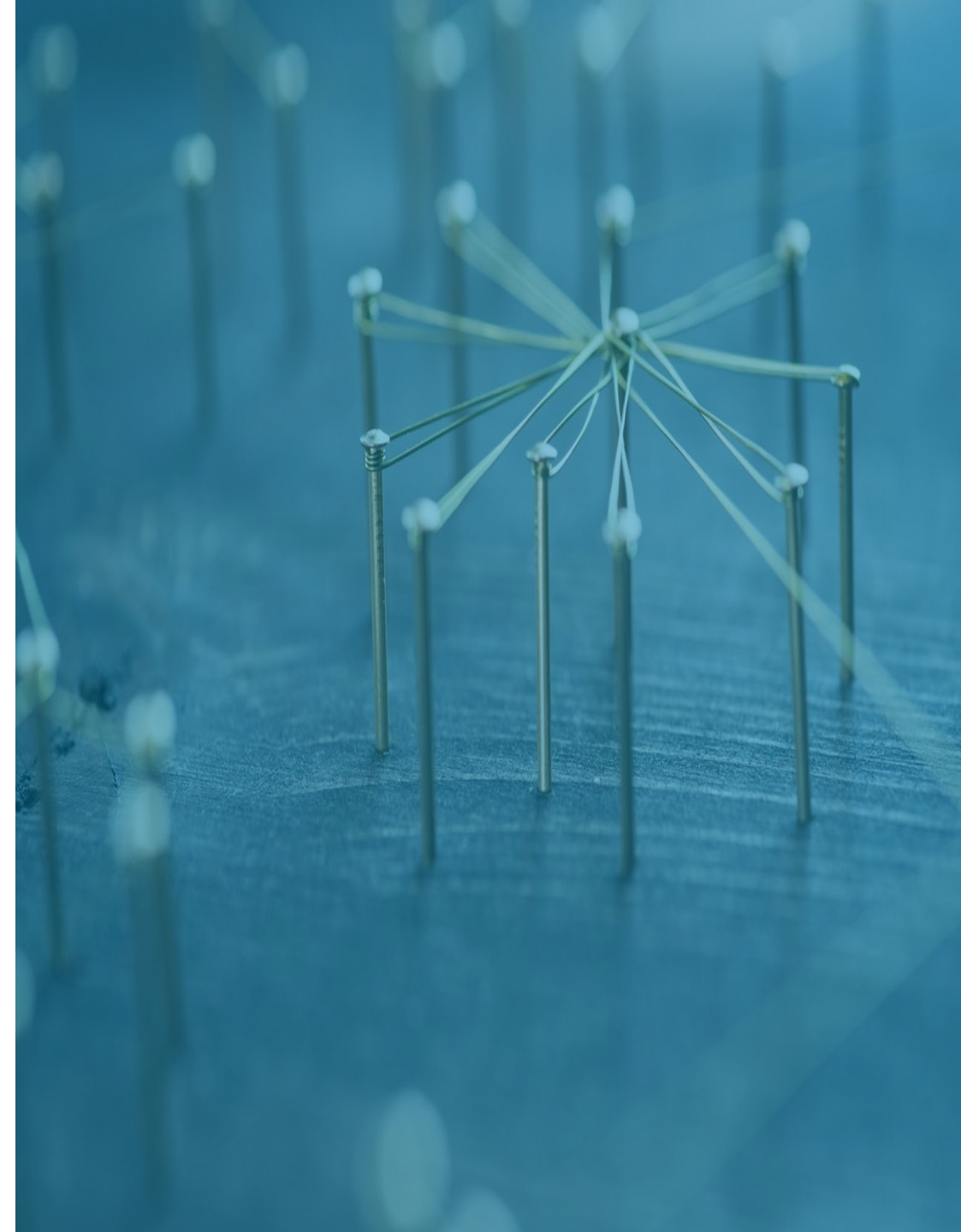
- States were allowed some time to come into compliance. States had to assess provider settings and state policies, then develop a Statewide Transition Plan (STP) to describe how its programs meet the rules and how it will fix the areas that do not comply.
- ND submitted their STP for all Medicaid Waivers
 - HCBS Waiver (serves Aged and Disabled)
 - Autism Spectrum Disorder (ASD) Waiver
 - Children's Hospice Waiver
 - Medically Fragile Children's Waiver
 - Technology Dependent Waiver
 - Traditional IID/DD HCBS Waiver

Ongoing Monitoring and Compliance

States must ensure continued compliance with the requirements.

ND ensures this by:

- Reviewing future settings
- Monitoring person-centered service plans through quality reviews
- Monitoring people's experiences are consistent with those of the general public
- Implementation of Policy and Procedures
- Case Management oversight activities
- Licensing requirements



STP Update and CMS Expectations

May 2022 CMS announced strategy for implementation of the HCBS requirements for states to continue to receive federal reimbursement

1. All states must receive final Statewide Transition Plan **by March 17, 2023**
 - ND achieved final approval by CMS February 2019

<https://www.hhs.nd.gov/sites/www/files/documents/DHS%20Legacy/nd-approved-statewide-transition-plan-ada.pdf>



STP Update and CMS Expectations

2. **By March 17, 2023:** all states and providers must be in compliance with requirements not directly impacted by the COVID-19 PHE disruptions (includes workforce challenges)

- Privacy, dignity, respect
- Freedom from coercion & restraint
- Control of personal resources
- Lease or other legally enforceable agreement (provider owned or controlled settings)
- Lockable doors (provider owned or controlled settings)
- Freedom to furnish or decorate their home
- Access to food & visitors at any time
- Physical accessibility of home
- Person-centered service plan documentation of modifications (right restrictions)



STP Update and CMS Expectations

ND presumes that previously approved setting assessments continue to be in compliance with the setting requirements (listed in previous slide)

- This is in anticipation of CMS completing future on-site visits



STP Update and CMS Expectations

3. **By December 1, 2022:** States may submit time-limited corrective action plans (CAPs) to authorize additional time to achieve full compliance with requirements that are directly impacted by PHE disruptions

- Access to the broader community
- Opportunities for employment
- Option for a private unit and/or choice of a roommate
- Choice of non-disability specific settings



STP Update and CMS Expectations

ND Aging will be submitting a CAP for any providers who are not in compliance with community integration



STP Update and CMS Expectations

4. **By January 1, 2023:** states must submit their process for waiver participants to notify the state of provider noncompliance

States can identify their processes through a variety of methods such as:

- case management
- call-in center
- state administration, etc.



Grievance/Complaint



- Concerns with provider staff, provider performance, service delivery, people's experiences, etc.
- Person receiving services, legal decision maker, or any other interested person can submit
- Can be submitted anytime
- Submit to Case Manager/Program Manager or Administration at state office
- Notification of right to submit a Grievance/Complaint initially & annually
- Policy will identify process & contact information

Grievance/Complaint

Potential Actions or Resolutions



- Contact with other entities
 - Human Service Centers or Zone
 - P&A, VAPS, Child Protection Services
 - Accreditation organization
- Team meeting
- Service plan revisions
- Service or provider changes
- Review or investigation
- On-site visit
- Monitoring
- Plan of Correction
- Licensure status change

Resources

ND Information

<https://www.hhs.nd.gov/human-services/hcbs>

Federal Information

- <https://www.medicaid.gov/medicaid/home-community-based-services/index.html>
- <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/home-community-based-services-final-regulation/index.html>
- <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/home-community-based-settings-requirements-compliance-toolkit/index.html>
- This intensive is about 3 hours, but it does have a lot of good information:
<https://youtu.be/OYFarI7aVVY> - **CMS Intensive: Time is of the Essence: Countdown to Compliance with the HCBS Settings Rule**



Thank you!