

Questions & Answers address the following topics:

- *CMS Final Rule (CMS 2249-F/CMS2296-F) Impact on Non-Residential Services in Indiana*
- *Employment & Volunteering*
- *Non-Residential Self-Assessment Survey Clarifications*
- *General Questions*

Additional Information:

- *Link to BDDS training webinar on HCBS Final Rule & Non-Residential Self-Assessment (sessions of August 8 and 9, 2016) posted at <https://indiana.adobeconnect.com/p2amy2tfth9/>*
- *PDF of related PowerPoint posted at <http://www.in.gov/fssa/files/Non-Residential%20Self-Assessment.pdf>*

CMS FINAL RULE <i>(CMS 2249-F/CMS2296-F) Impact on Non-Residential Services in Indiana</i>	
1. Knowing how prevocational programs work now, would those be isolated environments under the new rules?	
	<i>Yes, many of the current prevocational environments have characteristics of isolating individuals with intellectual/developmental disabilities. Many programs isolate based on the location and the fact that all participants have disabilities and are segregated from the greater community. So, many of these programs and settings are presumed to isolate based on how they currently work.</i>
2. Can you give information about which agencies are doing creative prevocational options to become in compliance with CMS or some specific info about what they are doing?	
	<i>The following overview of Indiana-specific initiatives was developed after the webinar and in response to this question.</i> <i>Indiana's Sheltered Workshop Transition contractors (Sycamore Services, Inc., and The Arc of Northeast Indiana) have been working over several months to develop and implement innovative practices for transitioning individuals from sheltered work to community employment. One of the initiatives that both agencies have utilized is an internship model which provides individuals with various work experiences within a larger business setting. Both agencies worked to build relationships with local employers on the benefits employers and the individuals would receive from an internship program. Both have worked closely with hospitals in their area to establish several internship opportunities across the settings. For example, an internship "rotation" has included stocking medical supplies in patient rooms, grounds keeping, janitorial, customer service, logistics and scheduling. There have been several placements in competitive employment at both the internship sites and with other business where there was a job match based on the skills acquired during the</i>

internship. One of the major outcomes of this work will be a comprehensive report and “road map” that providers will be able to utilize to model similar programs in their area.

3. Do you have or know any agencies in Indiana or elsewhere that already meet the guidelines?

*DDRS/BDDS is not able to identify any agencies in Indiana or elsewhere that already meet the guidelines at this time. However, we will be sharing the transition plans from providers involved in our demonstration activities/transitional work, including the creative options that are being developed and implemented toward compliance. See the **Resources – HCBS Rule** document posted <http://www.in.gov/fssa/ddrs/4917.htm>.*

4. Are we overall stating that we need to have more community events for our day service participants rather than in-house activities?

Day service programs will need to address individual needs, so adding more community events rather than in-house events won't necessarily lead to compliance.

5. The concept is good in theory but the implementation will be costly. Has CMS committed to fund the mandate? Wavier services were originally/ideally to be delivered one on one but that proved to be impractical.

While CMS will provide general HCBS funding, it is doubtful that CMS will uniquely fund this mandate. Because of this, great thought, planning, public input and creativity is needed to achieve compliance.

6. Can you clarify when providers will need to be fully compliant with HCBS Rule?

It is the goal of DDRS that all providers become fully compliant in the delivery of HCBS services in 2018 so there is time to transition and move individuals as needed for compliance in 2019.

7. By varying services, is CMS encouraging agencies to provide more than just facility based services, such as residential, in order to remain in compliance?

Unless they are integrated, facility-based services are presumed to be institutional per CMS. A provider of facility-based services does not become compliant simply by expanding its array of services. The addition of residential services would in no way negate or balance out the existence of facility-based (institutional) services as they exist today, nor would the addition of another service in or of itself result in compliance.

8. Is compliance achieved by offering the opportunity for community integration activities even if an individual declines? Will an agency be required to provide integration regardless of choice?

It is not expected that integration or going into the community will be forced upon a waiver participant when it is not desired by the individual. The PCP and ISP must fully document the informed choice of the individual waiver participant and the reasoning behind the decision when community integration is declined and a segregated setting is selected by the participant. However, because the state is still obligated to follow federal rules, this required documentation does not guarantee or imply that HCBS funding can be utilized to support the participant in a setting that isolates.

9. If a community setting is accessed by a group of people with disabilities is this considered inappropriate by the new rules?

A community setting that is accessed by a group of people with disabilities may or may not be considered appropriate by the new rules. For example, CMS indicates that “reverse integration”

alone as strategy or standalone solution does not necessarily resolve the problem of isolation or segregation. The level of integration is a factor, but we want to avoid returning to the concept of percentages to determine whether or not a setting or an environment is considered integrated versus segregated. Services must be person-centered in any setting or environment in order to comply with the HCBS rule.

10. What is reverse integration and how does it apply to the HCBS rule?

Reverse integration occurs when a facility serving individuals with disabilities invites the general public (individuals who have no disabilities) to join, attend, or engage in the activities offered within their facility. Opening the doors to others does not automatically result in integration per CMS. Likewise, when a public setting (such as an event at a public library) reserves a day specifically for individuals with disabilities, this would not be considered full integration as it still isolates and segregates these individuals from the greater community.

11. Do these new rules apply to senior citizen centers?

The HCBS settings rule applies only to HCBS settings and associated services.

12. Is a public park a public institution?

No, a public park is not an institution. In the context of the waiver application, an institution is a hospital, nursing facility, or ICF/IID for which the state makes Medicaid payment under the State plan.

13. What is the future of facility-based group services?

The future of facility-based services is not fully known at this time but must be viewed through the lens of the HCBS final rule.

14. Will DDRS be evaluating the current cap on Community-Based Habilitation – Individual (CHIO) hours due to HCBS Rule?

Reimbursement rates, service definitions, budgets, funding parameters, codes, etc. are all being looked at to ensure we are able to support compliance. The cap on CHIO will be included in this review.

15. Will there be a review of reimbursement rates related to Community-Based Habilitation -- Individual (CHIO) and -- Group (CHG) services? The current rates are identical to facility-based services although community-based services often involve additional costs, such as transportation costs.

Reimbursement rates, service definitions, budgets, funding parameters, codes, etc. are all being looked at to ensure we are able to support compliance.

16. Will individual budgets and funding parameters allow individuals to choose more individualized and community settings? Currently, restrictions on day service budgets limit or do not allow a significant amount of CHIO and often force group day programs to provide the 24 hour service required/needed.

Reimbursement rates, service definitions, budgets, funding parameters, codes, etc. are all being looked at to ensure we are able to support compliance.

17. "Buckets" of money can restrict an individual from choosing the services that they want through the waiver. Is this funding restriction going to change?

Reimbursement rates, service definitions, budgets, funding parameters, codes, etc. are all being looked at to ensure we are able to support compliance.

18. As the case managers complete the Person Centered Plan (PCP) for individuals, how will day services providers ensure the required elements of the PCP will be completed properly?

While the PCP process is typically facilitated by the case manager, each provider, including the day service provider, is expected to actively participate on the IST. Review of the PCP takes place as an integral part of the team meeting. Teams should ensure that the participant's choices are documented and that CMS requirements pertaining to Person-Centered Planning are captured. While monitored by the case manager, ensuring proper implementation of the PCP and ISP and appropriate support of the individual is the responsibility of all chosen providers.

19. Waiver participants don't always have the resources in their personal and waiver budgets to access the community as frequently as they would like. How would this be addressed in the new transition rules? What happens if the individual would rather spend more time at home or in the community but due to health and safety issues or their budgets, their only option is day services?

It is not expected that integration or going into the community will be forced upon the waiver participant when it is not desired by the participant. The PCP and ISP must fully document the informed choice of the individual waiver participant and the reasoning behind his or her decision while honoring the privacy and desires of the participant. The PCP must address health and safety as well. However, the state is still obligated to follow federal rules and this required documentation does not guarantee or imply that HCBS funding can be utilized to support the participant in a setting that isolates. DDRS is re-looking at our "buckets" to determine if change is needed as individual choice is ensured and supported.

20. If waiver participants are presented with many integrated options but choose a segregated environment is that considered as a choice?

The individual waiver participant has the right to choose a segregated environment, but the PCP and ISP must fully document the informed choice of the individual waiver participant and the reasoning behind the decision when community integration is declined and a segregated setting is selected by the participant. However, because the state is still obligated to follow federal rules, this required documentation does not guarantee or imply that HCBS funding can be utilized to support the participant in a setting that isolates.

21. Some families may choose quantity of services over community access. How will that be addressed?

The State is looking at options and attempting to tweak and revamp our programs to support full community access, especially related to costs and the need to stretch the funding as much as possible. Individual choice is important. While services and associated rates will be evaluated, participants will continue to look at what best meets their needs. The state will need to ensure all chosen services meet the HCBS rule.

22. Will there be comprehensive research to determine if individuals and their guardians feel this is successful and that they are better served after implementation than before?

Yes, we agree that the ability to demonstrate improvement in the lives of our participants as a result of these programmatic changes is critical.

EMPLOYMENT AND VOLUNTEERING

23. Does the minimum wage rule preclude a person from becoming a waiter/waitress since employers are not required to pay minimum wage?

No, the minimum wage rule does not preclude a person from becoming a waiter/waitress. The rule applies to all employees.

24. Can the person with a disability work in a non-paid internship?

Yes, a person with a disability may work in a non-paid internship providing the work is referenced in the ISP and PCP.

25. Will volunteer work be encouraged or is the intention for paid employment only?

The final rule does not mandate or imply that paid employment is the only acceptable option. Volunteer work will be encouraged when it is the choice of the waiver participant and documented in the PCP and ISP. Just as you or I make choices to work or volunteer as we wish, waiver participants will have that same option and be supported as needed to do so.

26. What about volunteer work provided in hospitals?

A hospital is probably an integrated community-based setting unless the waiver participant is being forced to work/volunteer there, or if volunteering in the hospital does not appear in the PCP or ISP of the participant.

27. How does this process correlate with outside certification agencies such as CARF?

The transition process is unrelated to any outside certification agency activities such as CARF. Providers may be asked to submit information to DDRS/BDDS related to final rule compliance. It's possible the provider will need to submit some of the same information to an accreditation agency related to certification. It is not our intent to place an undue burden on the provider, but it is our intent to comply with the federal rule.

NON-RESIDENTIAL SELF-ASSESSMENT SURVEY CLARIFICATIONS

28. Will all policies, procedures, settings need to be compliant with the HCBS rule before the survey is completed?

No, upon completion of the survey the results will be analyzed to verify areas of compliance and identify potential areas of non-compliance. It is not expected that all policies, practices, or areas of non-compliance be modified or corrected prior to completion of the survey. For any areas identified as non-compliant with HCBS, DDRS will notify and work with the provider agency to develop a plan to support the effective transition of the site to become HCBS compliant by July of 2018. This timeframe is to provide necessary time and planning for providers to demonstrate compliance and ensure minimal interruption in service delivery to individuals being supported by an HCBS waiver service.

29. What is the non-residential self-assessment?

For the context of DDRS' assessment, the Non-Residential Self-Assessment refers to an assessment to be completed by the providers of habilitative day services under the HCBS waiver programs administered by DDRS and utilized by waiver participants outside of or away from their homes. The Non-Residential day services include Adult Day Services, Prevocational Services, Community-Based Habilitation and Facility-Based Habilitation services.

30. Extended Services has fallen under the day services category. Is this survey for Extended Service providers?

Extended Services are not included in the non-residential self-assessment at this time but will be included and assessed if required by CMS.

31. When can we expect the assessment to come out?

DDRS expects to release the non-residential self-assessment survey in late August or early September 2016.

32. What is the deadline for completing the non-residential self-assessment survey?

The deadline for completion will be 30 calendar days from the date the non-residential self-assessment survey is released.

33. Terminology - defined within the Non-Residential Self-Assessment Survey

In the context of the non-residential self-assessment by day service providers:

- **Adjacent** means located next to
- **Available** means exists and can be accessed when chosen/selected/desired/needed
- **Co-located** means located in the same building
- **Integrated Community setting** means a place (outside of the participant's place of residence) where the participant interacts, mixes and mingles with people who do not have a disability
- **Interact with members of the community** means to intermingle, associate, work together, act together, exchange information, conduct business, hang out together, etc. with two-way communications, actions, or activities as desired and/or necessary...
- **Onsite Behavioral** means non-waiver-funded behavioral services rendered at the location of the waiver funded program
- **Onsite Medical** means non-waiver-funded medical services rendered at the location of the waiver-funded program
- **Onsite therapeutic** means non-waiver-funded therapy services rendered at the location of the waiver-funded program
- **Pathway to community employment** means a direct and intentional path leading to competitive community employment
- **Service** means the waiver-funded service selected by the waiver participant and his/her Individual Support Team
- **Setting*** means the type of program or environment in which the waiver-funded service is utilized
- **Site*** means the actual physical location of service delivery

**For example, a setting could be "a veterinary office" where the participant works part time or volunteers. The site might be the Animals R Us Clinic. Another example of a setting might be "a business office", and the site might be "the billing office of Dr. Care". Or, the setting might be an Adult Day Care facility, while the site might be the building at Good Day Facility at 123 East 4th Street.*

34. A provider's policies are sometimes requested with the non-residential self-assessment. Doesn't BDDS already have the provider's policies?

While BDDS requests policies during the provider approval/re-approval processes, the policies may have been updated since the approval/re-approval occurred. In order to comply with the HCBS settings final rule, existing policies may need to be revised and/or the development of additional policies may be required. The need for revisions or additions cannot be determined and claims of compliance cannot be supported without seeing a provider's current policies.

35. Are the topics of medical or behavioral contraindication for an integrated approach addressed in the survey tool?

BDDS is still working on the survey but anticipates the inclusion of text boxes to questions where contraindication potentially may be present and could be explained.

36. If a provider agency has more than one day service center/facility location does each location need to go through the process or can the agency submit items for all its centers?

The state is still designing the non-residential self-assessment survey. Thus, there is no appropriate response at this time.

37. If a provider agency has a number of different service locations, will they need to complete a different survey for each location or can they complete 1 survey and indicate the different locations and situations for those day services?

It is anticipated that providers will complete a single survey encompassing all sites or settings utilizing the same set of rules/provider policy. When sites or settings utilize differing/alternate rules, multiple surveys will be required.

38. We are not a day program provider. Is this survey for CHIO services?

Yes, providers of CHIO will need to complete the non-residential self-assessment survey.

39. Will a copy of the survey be available prior to activation of the on-line survey so providers have time to thoroughly review the requirements?

Yes, the non-residential self-assessment survey will be distributed and posted before it's time for it to be completed.

40. When will the (August 8th and 9th, 2016) webinar be available on your site?

A recording of the first presentation of the webinar and the accompanying PowerPoint slide deck are available on the FSSA webinars page at <http://www.in.gov/fssa/4993.htm>.

41. Can we get a copy of the slides presented today (August 8th and 9th, 2016)?

A recording of the first presentation of the webinar and the accompanying PowerPoint slide deck are available on the FSSA webinars page at <http://www.in.gov/fssa/4993.htm>.

42. If a provider is completing only one survey should the agency pull a certain number of waiver participants from each site to survey or will the survey cover all sites surveyed at each agency?

The non-residential self-assessment survey is not individual client or participant-specific, so there will be no representative sampling. It is anticipated that the survey will be site- or setting-specific.

43. Are residential providers required to do the non-residential self-assessment if they have no on-site day program but they do provide CHIO?

Yes, providers of CHIO will need to complete the non-residential self-assessment.

44. Will the survey ask that a CHIO only provider fill out all day program questions or be specifically targeted for those residential providers doing CHIO only?

It is not yet known if the CHIO only provider will complete the entire survey or only a portion of it. However, it is likely that the entire survey will be completed.

45. If facilities offer both day program activities and workshops in the same building will the provider do one survey or two? The answers to the questions will be very different.

The state is still designing the non-residential self-assessment survey and we'll have to let you know after that is decided.

46. Does a provider need to fill out only one assessment for the agency when there is more than one day service location?

The number of surveys to be completed will depend upon the structure of your agency. The survey is still being finalized, but it is anticipated that providers will need to complete one survey for each program operated under each set of policies. For example, if the provider has one set of policies pertaining to Community-Based Habilitation, but another set of policies for Prevocational services, there may be a need to complete more than one survey.

47. Is there a different survey for prevocational versus facility-based habilitation services?

There is only one version of the non-residential self-assessment survey so it won't differential between types of services or settings, but the number of surveys to be completed will depend upon the operational structure of your agency. The survey is still being finalized, but it is anticipated that providers will need to complete one survey for each program operated under each set of policies. For example, if the provider has one set of policies pertaining to Facility-Based Habilitation, but another set of policies for Prevocational services, there may be a need to complete more than one survey.

48. If an individual does not attend a day program but has CHIO services, does the provider need to complete the site specific assessment on the residential site?

A non-residential self-assessment survey must be completed when an individual does not attend a day program but utilizes CHIO. The site specific assessment will be based on CHIO. Note that CHIO is a community-based service and would not be rendered in the residential site.

49. Is this survey done for every individual that receives CHIO or just one for the agency?

The non-residential self-assessment survey is not individual-specific. A provider of CHIO may only need to complete one survey if all of the provider's CHIO settings operate under the same set of policies.

50. When is the survey expected to be coming out?

DDRS expects to release the non-residential self-assessment survey in late August or early September 2016. DDRS will help providers prepare by posting the survey in advance of the actual survey timeframe and provide information and training on how it is to be completed and interpreted.

51. How will we be informed when the assessment is ready to be completed? By email?

When the non-residential self-assessment is ready, DDRS will notify providers via DDRS Announcements, email, and additional outreach activities.

52. How did BDDS track attendance for participation in the webinars?

Attendance for the August 8 and 9, 2016, webinars was only tracked based on the list of attendees in the attendance boxes of each webinar. However, providers are reminded that participation in the non-residential self-assessment survey is required.

53. How will CARF be involved in this process?

The accreditation process by CARF and other accreditation entities is not related to the HCBS final rule. It may not be possible for the state to avoid asking for the same information that that has already been provided to CARF or another accrediting body. It is not our intent to place an undue burden on the provider, but it is our intent to comply with the federal rule.

GENERAL QUESTIONS

54. Who has the responsibility for completing the PCP?

The case manager is responsible for completing the PCP with input from the Individual Support Team (IST). The state is looking at the PCP process and ways to bolster the process to ensure compliance, which may require additional training of case managers. Ultimately, we all need to ensure proper implementation of each PCP.

55. How can a provider add another person from their agency to the state's email distribution list?

Please contact the BQIS Helpline at BQIS.Help@fssa.in.gov for assistance as needed.

56. How can providers find out who is receiving their NOA email?

Please contact the BQIS Helpline at BQIS.Help@fssa.in.gov for assistance as needed.

57. What is the best email to send questions/comments?

During announced public comment periods, comments and questions specific to the Statewide Transition Plan should be sent to the public comment address, HCBSrulecomments@fssa.in.gov, on FSSA's Home and Community-Based Services Final Rule Statewide Transition Plan webpage, <http://www.in.gov/fssa/ddrs/4917.htm>. The public comment period is currently closed. However, you may contact Cathy Robinson directly at Cathy.robinson@fssa.in.gov or BQIS.Help@fssa.in.gov at any time.