



# The Indiana Family and Social Services Administration

## Division of Aging Transition Plan Listening Session

November, 2014





## **CMS Final Rule on Home and Community Based Settings**

- Issued March 2014
- Already had its own public comment period
- Focuses on the nature and quality of individuals' experiences.
- The requirements maximize opportunities for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting.



## **CMS Final Rule on Home and Community Based Settings**

- The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community.
- CMS expects all states to review current HCBS programs and to develop a transition plan providing an assessment, strategies and timelines for compliance with the new rules.



## **Settings that are NOT Home and Community Based**

- Nursing facility
- Institution for mental diseases (IMD)
- Intermediate care facility for individuals with intellectual disabilities
- Hospital



## **Settings that are Presumed NOT to be Home and Community Based**

- Settings in a publicly or privately-owned facility providing inpatient treatment.
- Settings on grounds of, or adjacent to, a public institution.
- Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid home and community based services - can apply to our assisted living and adult family care settings
- Will be subject to “heightened scrutiny review” by CMS.



## **Home and Community Based Settings Requirements**

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.
- Optimizes individual initiative, autonomy, and independence in making life choices.
- Facilitates individual choice regarding services and supports, and who provides them.
- Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement.



## **Home and Community Based Settings Requirements**

- Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity.
- Each individual has privacy in their sleeping or living unit.
- Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed.
- Individuals sharing units have a choice of roommates.
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.



## **Home and Community Based Settings Requirements**

- Individuals have freedom and support to control their schedules and activities and have access to food any time.
- Individuals may have visitors at any time.
- Setting is physically accessible to the individual.
- Modifications of the additional requirements must be:
  - Supported by specific assessed need
  - Justified in the person-centered service plan
  - Documented in the person-centered service plan.



## **CMS On Secured Memory Care Units**

- Delayed egress and secure perimeters have been identified as NOT characteristic of home and community based settings by CMS.
- CMS continues to evaluate these settings



## More to come...

- Rule applies to all settings where home and community based are delivered, not just to residential settings and CMS will provide additional information about how states should apply the standards to non-residential settings.



## The State's Transition Plan

- **ASSESS (2014 – 2015)**
  - Review States' existing rules, policies and procedures (already started)
  - Provider "Self-Assessments" (already started)
  - Individual Assessments
  - Case Manager Assessments



## **Initial Assessment Results – Adult Family Care Settings**

- 40 Adult Family Care Providers Received Self-Survey Forms
  - 15 Responses Returned
  - 73% of responses indicated some need for remediation
- Issues identified include
  - lack of enforceable leases
  - “house rules” for visiting hours or meals
  - Some instances of roommates
  - FLSA issues, mostly for relief staff



## **Initial Assessment Results – Assisted Living Setting**

- 87 Assisted Living Providers Received Self-Survey Forms
  - 62 Responses Received
- Issues identified include
  - Rules for visiting hours and schedules
  - Privacy
  - Some instances of “roommate & roommate choice” issues
  - Secured Memory Care units
  - Access to food and drink at any time
  - Access to transportation into the community
  - Lack of enforceable leases



## **The State's Transition Plan, continued**

- **DEVELOP NEW STANDARDS (by 12/2016)**
  - Create “Work Groups” consisting of waiver participants, providers, advocacy groups and state staff to create new standards
  - Write new state policies
  - Request new legislation from the State Legislature



## **The State's Transition Plan, continued**

- **COMMUNICATE NEW STANDARDS (2016 – 2017)**
  - Train Providers
  - Make sure everyone knows what the new State Rules are!!!



## **The State's Transition Plan, continued**

- **IMPLEMENT NEW STANDARDS (2017 with full compliance by 1/2018)**
  - Require that all providers are following the new rules and State Standards
  - Providers not implementing the new rules will be required to submit Corrective Action Plans
  - Providers NOT implementing the new rules will not receive Waiver Funding



## Transition Plan

- Plan can be viewed online at [www.in.gov/fssa/4917.htm](http://www.in.gov/fssa/4917.htm)
- Email: [HCBsrulecomments@fssa.in.gov](mailto:HCBsrulecomments@fssa.in.gov)
- Written comments should be sent to:

State of Indiana

FSSA/OMPP

Attn: HCBS Final Rule - Waiver Manager

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