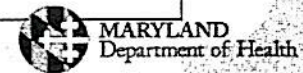


Home and Community-Based Settings (HCS) Final Rule

Office of Long Term Services and Supports
Community Settings Team 2019
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Overview

- ❖ Description of Federal Rule and its requirements
 - Applicable sites
- ❖ What is the Community Setting Rule?
- ❖ Requirements
 - Residential and Non Residential
- ❖ HS - Heightened Scrutiny
- ❖ Programs
- ❖ Compliance
- ❖ Looking ahead

Federal Rule: Home and Community-Based Settings

- ❖ Centers for Medicare & Medicaid Services (CMS) issued the HCBS final rule on January 16, 2014
 - The rule became effective on March 17, 2014
 - Full compliance is required for all providers by March 1, 2022
 - New providers or sites need to be in compliance when they start services
- ❖ The rule describes requirements for home and community-based services provided under Medicaid authorities 1915(c) (CO Waiver), 1915(i), and 1915(k) (CFC)

What is the Settings Rule?

Intent of the Rule

- ❖ Enhance the quality of home and community-based service programs and provide protections to participants
- ❖ Ensure that individuals who receive **long term services and supports** through HCBS programs have a community experience and not an institutional one
- ❖ Ensure that individuals have **full access** to benefits of **community living** and the opportunity to receive services in the most **integrated setting**
 - Integration – access to the community
 - Individual Rights – privacy, dignity, respect
 - Autonomy – independence and choice



Which Services?

❖ Residential and facility based day services, such as:

- Medical Day Care (MDC)
- Senior Center Plus
- Assisted Living Facility (ALF)
- Autism Waiver Residential Habilitation (AW)
- Day Habilitation
- DDA Residential

Requirements for Non-Residential Settings

Non-residential settings include MDC and Senior Center Plus

❖ Examples of requirements:

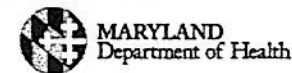
- Participants spend the majority of their time in **activities of their choice**
- Setting must be **physically accessible** to the individual
- Each individual has **privacy**
- Participants know how to **request changes** to their current services
- Participants are able to **choose** their provider
- Participants interact with the **greater community**

Requirements for Residential Settings

Residential settings include ALFs, Residential Habilitation, and Group Homes

❖ Examples of requirements:

- Individuals have the right to have **visitors at any time**
- Setting must be **physically accessible** to the individual
- Each individual has **privacy**
- Individuals sharing rooms have the **choice of roommate or a private room**
- Facilities have a **lockable entrance** and bedroom doors with **keys**
- Individuals control their own schedules and have **access to food at any time**



Modifications to the Rule

- ❖ Individual-specific modifications may be necessary

Modifications must be:

- Person-Specific, not generalized to a diagnosis or facility
- Justified and documented in the person-centered plan
- The least restrictive option
- Consented to by participant
- Reviewed annually

State Transition Plan

- ❖ All services provided under Home and Community Based Service (HCBS) waivers must be in compliance by March 2022
- ❖ All states that provide HCBS were required to submit a Transition Plan outlining how they will ensure compliance
- ❖ Maryland received initial approval in August 2, 2017
- ❖ CMS provided the following additional requirements for final approval:
 - Complete comprehensive site-specific assessments of all home and community-based settings



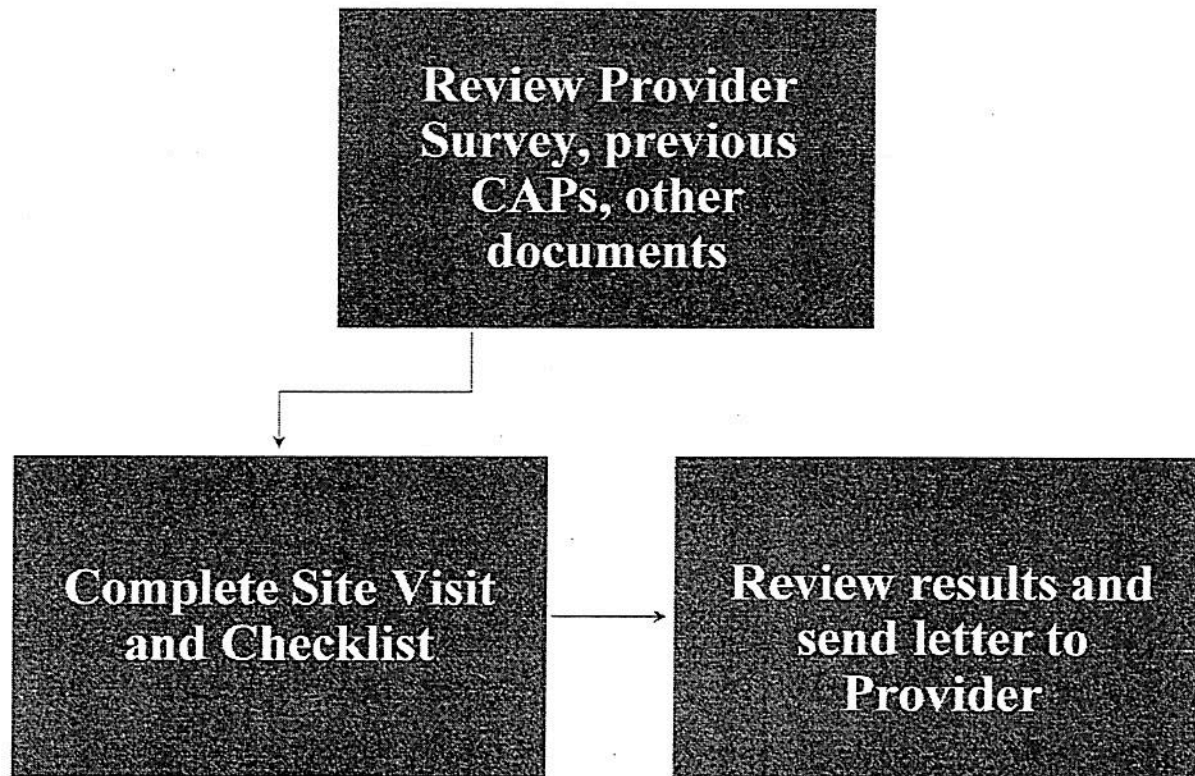
Validation

- ❖ States are required to submit evidence to CMS related to validation of compliance
- ❖ Strategies include:
 - Provider Survey
 - Site visits
 - Residential/Admission Agreement review
 - Person Centered Plan review
- ❖ Corrective Action Plans or Provider Transition Plans are necessary for most providers as they work towards compliance

Community Settings Site Review

- ❖ Site visits and document review are completed
 - Site Visit Checklists, specific to each program, are completed
- ❖ Evidence of compliance or non-compliance is reviewed and outlined in a letter to each provider
 - The Transition plan needs to include:
 - Steps taken to make the changes
 - Who will make the changes
 - When the changes will be completed
- ❖ Second round site visits are completed after a transition plan or corrective action plan is received
 - All documentation is reviewed again to assure full compliance

Compliance Review Process



HCBS Heightened Scrutiny

- ❖ Settings identified for **Heightened Scrutiny** have qualities that tend to be institutional or isolating. Some are prescribed by the regulation:
 - Settings located, or on the grounds of, or immediately adjacent to, a public institution;
 - Settings located in a building that is publicly or privately operated facility providing inpatient care.
- ❖ Some settings are determined to be HS after review:
 - A setting having an effect of isolating individuals
 - Proximity to other sites and community, multiple services in one site are some qualities considered.
- ❖ CMS makes the final decision for remediating a HS designation.
- ❖ The State advocates for providers and helps gather evidence/documentation of the community nature of the program.



Medical Day Care and Senior Center Plus

- ❖ Medical Day Care program site visits were completed by February 2018 for all 117 Medical Day Care providers
 - 97 sites were compliant
 - 4 providers received corrective action plans
 - 17 were considered heightened scrutiny and submitted to CMS for review after public comment
- ❖ Site visits for the Senior Center Plus program were reviewed and completed by April 2018 for all 3 providers
 - All Senior Center Plus sites are currently compliant with the rule

Autism Waiver Residential Habilitation

- ❖ Maryland has completed the provider specific assessment for all Autism Waiver Providers
- ❖ All 22 provider follow up letters were sent on March 1, 2019.
- ❖ No site is currently 100% compliant
 - A Transition Plan is required for all sites by the end of April 2019
- ❖ There will be a second round of site visits before 2022



HCBS Standards

- ❖ States can set higher standards or more restrictive requirements for settings than those found in the regulation.
 - The regulations set the floor for requirements, but states may elect to set more stringent requirements for what constitutes an acceptable setting
- ❖ Maryland has done this in two ways:
 - Tiered Standards for DDA providers
 - Accelerated compliance deadline in 2019 for ALFs

Assisted Living Facility (ALF)

- ❖ Maryland has a total of 522 Medicaid-enrolled ALFs currently serving 1,064 individuals
 - 7 percent of Assisted Living Facilities visited were 100 percent compliant after the 1st Round of visits
 - 383 second round site visits are complete and 139 are scheduled
 - 115 ALFs (22%) are currently compliant
 - 259 are not compliant
- ❖ Most frequent non-compliance issues
 - Keys to the entrance of the facility
 - Keys to their bedroom door.
 - Lockable bedroom doors.



Day Habilitation

- ❖ As of June 2018 DDA regional staff completed visits for all Day Habilitation Providers
 - ❖ Central Maryland Region
 - 63 site visits completed
 - 31 sites in compliance
 - ❖ Eastern Shore Region
 - 12 site visits completed
 - 12 sites in compliance
 - ❖ Western Maryland Region
 - 1 visit still pending
 - 34 site visits completed
 - 19 sites in compliance
 - ❖ Southern Maryland Region
 - 82 visits completed
 - 71 sites in compliance
 - 5 sites awaiting decision letters

Compliance

- ❖ March 17, 2022 is compliance deadline under the federal rule
- ❖ State time period for providers:
 - Medical Day Care - January 1, 2022
 - Senior Center Plus - January 1, 2022
 - Assisted Living Facilities- September 1, 2019
 - Autism Waiver Residential Habilitation - January 1, 2022
 - Day Habilitation - December 1, 2021
 - DDA residential programs - December 1, 2021

***New providers or sites for all programs need to be in compliance before they receive a Medicaid Provider number.**



Looking Forward

- ❖ Visits are complete for MDCs and Senior Center Plus
- ❖ MDH is working with CMS to advocate for those sites designated as HS.
 - Autism Res Hab and DDA/ BI Day Hab visits are complete and HS process is in progress.
- ❖ Site visits are currently in progress for ALFs, BI and DDA residential sites
- ❖ MDH is working with providers to complete their transition plans and come into compliance with the rule

Questions



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