

Medicaid Community Options

Course 4: Community Settings

Mansi Shukla

Division of Participant Enrollment & Service Review

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HCBS Settings Final Rule

- The final rule defines and describes the requirements for home and community-based settings
 - Issued by CMS on January 16, 2014
 - HCBS providers must comply with the rule to receive Medicaid payments
- The HCBS settings final rule applies to
 - 1915(c) HCBS waivers
 - Section 1915(i) State Plan HCBS
 - Section 1915(k) (Community First Choice) authorities

HCBS Settings Final Rule

- The final rule establishes:
 - Qualities of HCBS settings
 - Settings that are not HCBS
 - Settings that are presumed not to be HCBS
 - State compliance and transition requirements
- Purpose of the rule is to ensure that individuals receiving services and supports through Medicaid's HCBS programs:
 - Have full access to the benefits of community living
 - Are able to receive services in the most integrated setting

HCBS Settings Final Rule in Maryland

- Participants of Community First Choice (CFC) and Community Personal Assistances Services (CPAS) are currently required to live in a compliant setting
- The Community Options (CO) Waiver is not federally required to be in compliance until 2022
 - Compliance deadline recently extended by CMS
 - The State will continue to aim for compliance in 2019 as originally planned

Community Settings Questionnaire

- The Community Settings Questionnaire (CSQ) is used to determine a setting's compliance with the final rule
 - Completed within the LTSSMaryland Tracking System
 - Determines technical eligibility for the applicable programs
 - Supports planners must answer the CSQ questions honestly and accurately
- The CSQ must be completed
 - During the application process
 - Annually
 - Upon any change in residence or living situation
 - Ex. a new roommate or new rules/regulations in the residence

Description of the Residence

- Prior to completing the full CSQ, the form will ask the SP to select the option that best describes the current residence

Please select the option that best describes the current residence:

- A home owned or leased by the individual or their family member.
- An apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control.
- Other shared housing

- Settings that do not meet one of the first two scenarios are treated as provider owned or controlled and the full CSQ must be completed

Description of the Residence

- If the option of Other shared housing is chosen, the CSQ will request the following information:

Number of unrelated people living together at this address or in this setting:

Do any unrelated individuals receive services or supports in this setting?

- Regulations define institution as “establishment that furnishes, in single or multiple facilities, food, shelter, and some treatment or services to **four or more** individuals unrelated to the proprietor”
 - This means that even if a setting appears to meet the requirements based on the full CSQ questions, they may still be classified as an institution

Excluded Settings

- The regulations define “home” as the participant's place of residence in a community setting.
- The following settings are excluded from CFC participation:
 - Assisted living facilities
 - Residential rehabilitation programs
 - Alternative living units
 - Residential facilities for individuals with intellectual or developmental disabilities
 - Any other provider-owned or controlled residence

Answering the CSQ Questions

- The CSQ questions should be looked at from the perspective of how the setting impacts a person's life and their ability to make decisions
 - Example: If the question asks “does the participant have the opportunity to seek employment if they choose?” the answer should not be based on whether or not a person is physically able or chooses to work. The answer should reflect whether the setting in which they reside prevents them from seeking employment.

CSQ Question 1a

- Question 1a is used to determine if the setting in which a participant lives is affecting their opportunity to seek employment

1a. Does the participant have the opportunity to seek employment if they choose?

- If a person chooses not to work, or is incapable of working, unrelated to the setting in which they live, the answer to this questions should be “Yes“
- Supports planners should consider
 - If the participant would like to work, is there activity that ensures the option is pursued?
 - Does the participant regularly engage in meaningful non work activities in an integrated community setting?

CSQ Question 1b

- Question 1b is used to determine the affects of the setting on the participant's ability to engage in community life

1b. Is the participant able to engage in community life the way they choose?"

- When answering this question the SP should consider
 - Does the participant regularly access the community?
 - Is the participant aware of activities occurring outside of the setting in which they live?
 - Does the individual shop, attend religious services, meet with friends and family, etc., in the community as they choose?



CSQ Question 1c

- Question 1c is used to determine the participant's control over their personal resources, with or without the assistance of a chosen representative

1c. Does the participant have control over personal resources?

- A participant may choose to have someone else in control of their personal resources– if the participant makes that choice they are still ultimately in control
- The SP should consider
 - Does the participant have a checking or savings account or other means to control their funds?
 - Does the participant have access to their funds?
 - How is it made clear that the participant is not required to sign over their paychecks to their provider?

CSQ Question 2

- Question 2 determines if the participant or someone assigned by the participant chose the residence in which they reside
 - 2. Did the participant choose the residence?
- SPs should consider
 - Was the participant given a choice of available options of places to live or receive services?
 - Was the person given opportunities to visit other settings?
 - Does the setting reflect the participant's needs and preferences?

CSQ Question 3a & 3b

- Questions 3a and 3b determine if and how a person's rights of privacy, dignity and respect are being met within the setting
 - 3a. Does the participant feel that their rights of privacy, dignity and respect are being met?
 - 3b. How are the participant's rights of privacy, dignity and respect ensured?
- Supports planners should consider
 - Is health information about individuals kept private?
 - Are schedules of individuals medical appointments and medical needs posted in an open area or kept private?
 - Do individuals greet and chat with staff?
 - Does the individual have privacy in their living space and a private place to visit with family or friends?
 - Do they have access to make private phone calls, texts or emails?

CSQ Question 3c & 3d

- Questions 3c and 3d determine if a participant's living situation is free from coercion or restraint

3c. Does the residential situation appear free of coercion or restraint?

3d. How is freedom of coercion and restraint ensured?

- Supports planners should consider
 - Do participants have informed consent on the use of restraints or restrictive interventions?
 - Is information about filing a complaint posted in an obvious location?
 - Is the participant comfortable discussing concerns?
 - Can the participant file an anonymous complaint?

CSQ Question 4

- Question 4 determines if a participant feels independent in life choices within their chosen setting
 - 4. Does the participant feel they are independent in making life choices (with or without the assistance of a chosen representative)?
- Supports Planners should consider
 - Can the participant choose their schedule?
 - Do they have access to leisure activities that interest them and schedule those activities at their convenience?
 - Are individual choices incorporated into the services and supports received?
 - Can a person come and go as they wish?

CSQ Question 5

- Question 5 determines if a participant has the choice of who provides their services within the setting they have chosen to live

5. Can the participant choose who provides their services in this setting?

- Supports planners should consider
 - Does the participant express satisfaction with the provider selected?
 - If a participant is unhappy with a worker, can they request a different worker to assist them?
 - Does the participant know who to contact if they want to request a new provider?

CSQ Question 6

- Question 6 is used to determine if participants are informed of their right to choose their provider and make changes to their services

6. Are participants informed about freedom of choice of providers and given options to change their services if they desire?"

- Supports planners should educate the participant on their options and how to make changes to their services– they should consider
 - Does the person know they can choose another setting or provider?
 - Do they know who to call to make a change?

CSQ Question 7

- Question 7 is used to determine if there is a legally enforceable agreement for the unit or dwelling where the individual resides

7. Does the participant have a lease or other legally enforceable agreement?

- The supports planner should obtain a copy of any lease or written agreement that exists and a copy of the lease or agreement must be uploaded to the LTSSMaryland tracking system
- Supports planners should consider
 - Does the lease or agreement provide the same protection from eviction as a person not receiving HCBS?
 - Does the participant know their rights regarding housing and when they could be asked to be relocated?

CSQ Question 8a

- Question 8 further explores the right of privacy by asking if a participant has the ability to lock their door

8a. Can the participant lock their door?

- Supports planners should consider
 - Can a participant close and lock their bedroom door?
 - Can a participant close and lock the bathroom door?
 - Does the participant have keys to the entrance door and their bedroom door?

CSQ Question 8b

- Question 8b determines the level of choice that a person has within their chosen setting related to their roommate or room

8b. Did the participant have a choice of their roommate or private room if they can afford one?

- Supports planners should consider
 - Was the participant given the choice of a roommate?
 - Does the participant know how they can request a roommate change?
 - Does the participant talk about their roommate in a positive manner?

CSQ Question 8c

- Question 8c determines the level freedom and choice a person has regarding the decoration of their room

8c. Does the participant have the freedom to decorate?

- Supports planners should consider
 - Are a participant's personal items, such as pictures, books and memorabilia present and arranged as the participant desires?
 - Does a participant's living area reflect their interests and hobbies?
 - Does the furniture, linens and other household items reflect the participant's personal choices?

CSQ Question 9a

- Question 9a determines the participant's ability to choose and control a schedule that meets their wishes

9a. Can the participant control their own schedule?

- The supports planner should consider
 - How is it made clear that the participant is not required to adhere to a set schedule?
 - Does the participant's schedule vary from others in the same setting?

CSQ Question 9b

- Question 9b determines the ability of the participant to access food at any time within their chosen setting

9b. Does the participant have access to food at any time?

- The supports planner should consider
 - Are snacks accessible and available at any time?
 - Does the participant have a meal at the time and place of their choosing?
 - Can the individual request an alternative meal if desired?

CSQ Question 10

- Question 10 helps to determine if the setting is isolating a participant from other individuals in the community

10. Can the participant have visitors at any time?

- The supports planner should consider
 - Are visitors present?
 - Are visiting hours posted?
 - Are visitors restricted to specified visiting hours?
 - Is there evidence that visitors have been present at regular frequencies?

CSQ Question 11

- Question 11 is used to determine if the physical environment meets the needs of the participant

11. Is the setting physically accessible for the participant?

- The supports planner should consider
 - Is the setting physically accessible with no obstructions such as steps, lips in doorways, narrow hallways, etc. limiting a participant's mobility in the setting?
 - If obstructions exist, are environmental adaptations present, such as a stair lift or ramp?

CSQ Question 12

- Question 12 is used to determine if the setting isolates participants from others in the community

12. Does the participant interact with community members who do not receive services?

- Any level of participant choice affecting the answer of this question should be documented
- The supports planner should consider
 - Does the setting or provider prevent the person from interacting with the community?
 - Is the setting in the community among other private residences and retail businesses?
 - Have they been offered the opportunity to interact with others not in service?

CSQ Answer Verification

- Supports planners must document how they verified the information provided in the CSQ
- Answering the CSQ questions without visiting the home is not appropriate

Please explain how you verified numbers 1-12 above. Please note that verification should include:

- a site or home visit,
- discussion with the participant during the person-centered planning process,
- a review of relevant documents such as the signed lease or house rules documents,
- photographs or direct observation of the locks and accessibility features,
- and/or discussion with family or other representatives

Please note that verification solely through provider report is not sufficient. Verification must be noted in order for a determination to be made. Incomplete verification information will be returned for clarification.

Modifications

- Modifications may need to be made to the HCBS requirements for specific individuals– there is a process for requesting and documenting modifications noted on the CSQ form:

If any of the answers to the previous questions are “No,” please provide documentation in the Plan of Service that:

- Identified a specific and individualized assessed need to support modifications to the HCBS conditions.
- Shows the positive intervention and supports used prior to modifications to the person-centered service plan.
- Identifies less intrusive methods for meeting the need that have been tried but did not work.
- Includes a clear description of the condition that is directly proportionate to the specific assessed need.
- The Plan of Service must:
 - Include regular collection and review of data to measure the ongoing effectiveness of the modification.
 - Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
 - Include the informed consent of the applicant/participant.
 - Include an assurance that interventions and supports will cause no harm to the applicant/participant.

Modifications

- Modification requests should be based on a specific and individualized assessed need— having a certain diagnosis alone is not justification for a modification
 - A request for a modification should not be made just because a person has a diagnosis of dementia, but because of a specific behavior that a person exhibits
 - Ex. People with dementia have the potential to wander vs. this person who is diagnosed with dementia has a history of wandering

Modifications

- Less intrusive methods for meeting the needs of the person should be attempted prior to making a modification, unless they would cause serious harm to the participant.
- Past behaviors and previous interventions should be discussed with the person, their representatives, and providers prior to implementation of a modification to determine if the modification is appropriate

Modifications on the CSQ Form

- Modifications should be requested within the CSQ form in the “Explain” section
 - Include specific modification being requested
 - Include justification for the modification and any previous less intrusive attempts to meet the person’s needs
- If additional information is needed to make a determination the CSQ reviewer will send a clarification request through the LTSSMaryland tracking system

Modifications on a POS

- Once a modification is approved on a CSQ, the modification will need to be added to the plan of service
 - The specific modification should be noted in the Comments section of the Assisted Living or related services line on the plan
- The applicant or participant's signature on the plan of service indicates their consent to the modification
- The health and safety needs question on the plan of service indicates that the requested modification will cause no harm to the participant

Modification Review

- The CSQ must be completed annually and any modification would need to be re-approved prior to an annual plan of service submission
- Any modifications on a POS should be re-evaluated during the annual med/tech process and updated or removed as appropriate