IN FSSA Division of Aging

Provider Training

December 13, 2016

Agenda

- Group Session-Welcome and Introductions
  - FSSA overview
  - Overview of the HCBS Settings Rule
  - Updates on Indiana's Statewide Transition Plan
  - Remediation process
  - Heightened Scrutiny process
  - Issues and Future Direction
- Lunch
- Provider Breakout Sessions

Purpose of the HCBS Final Rule

To maximize the opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting.

Overview of the Family and Social Services Administration

FSSA is comprised of 5 divisions:

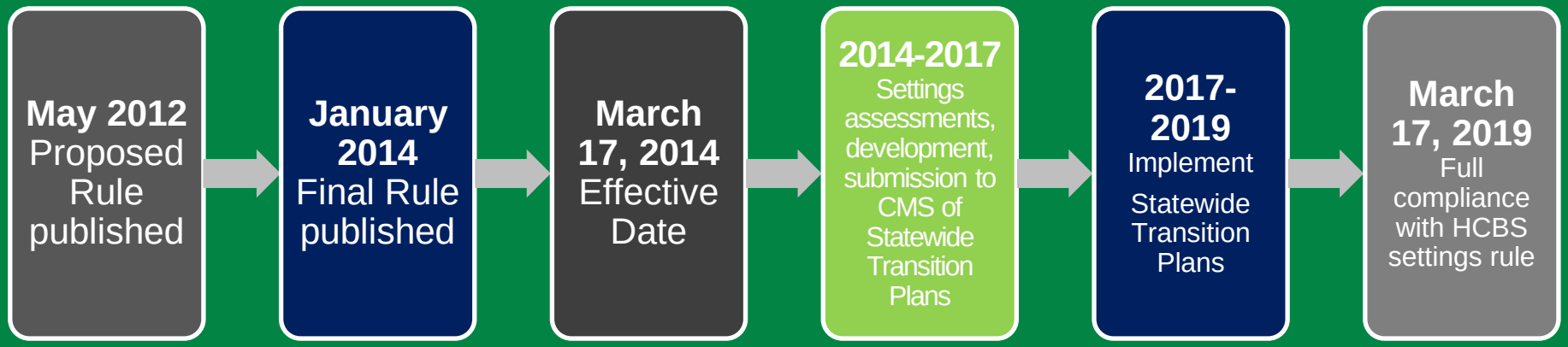
- Division of Aging (DA)
- Division of Disability and Rehabilitative Services (DDRS)
- Division of Mental Health and Addiction (DMHA)
- Office of Medicaid Policy and Planning (OMPP)
- Division of Family Resources (DFR)

Indiana's Division of Aging administers 2 of 9 HCBS programs:

- Aged and Disabled waiver (A&D)
- Traumatic Brain Injury waiver (TBI)

Overview of the HCBS Settings Rule

Timeline



What is the HCBS Settings Rule?

- The goal of the rule is to ensure people receiving services through HCBS programs have the chance to work and spend time with other individuals in the community that do not receive HCBS services, and to increase the quality of services
- The rule focuses on:
  - **Daily Life:** where participants go, what they do, the choices they have
  - the importance of **Person-Centered Planning**
  - **Individual** or family member's **rights** and ensuring those rights are protected

What is the HCBS Settings Rule?

- The regulation covers all 1915(c) and 1915(i) state plan programs
  - Also includes any 1915(k) programs approved after March 2014, 1115 Demonstrations, and 1915(b)(3) waiver services

Overview of the HCBS Final Rule

Includes opportunities to:

- Seek employment and work in a competitive and integrated setting
- Engage in community life
- Control personal resources
- Receive services in the community to the same degree as individuals who do not receive HCBS

Overview of the HCBS Settings Rule

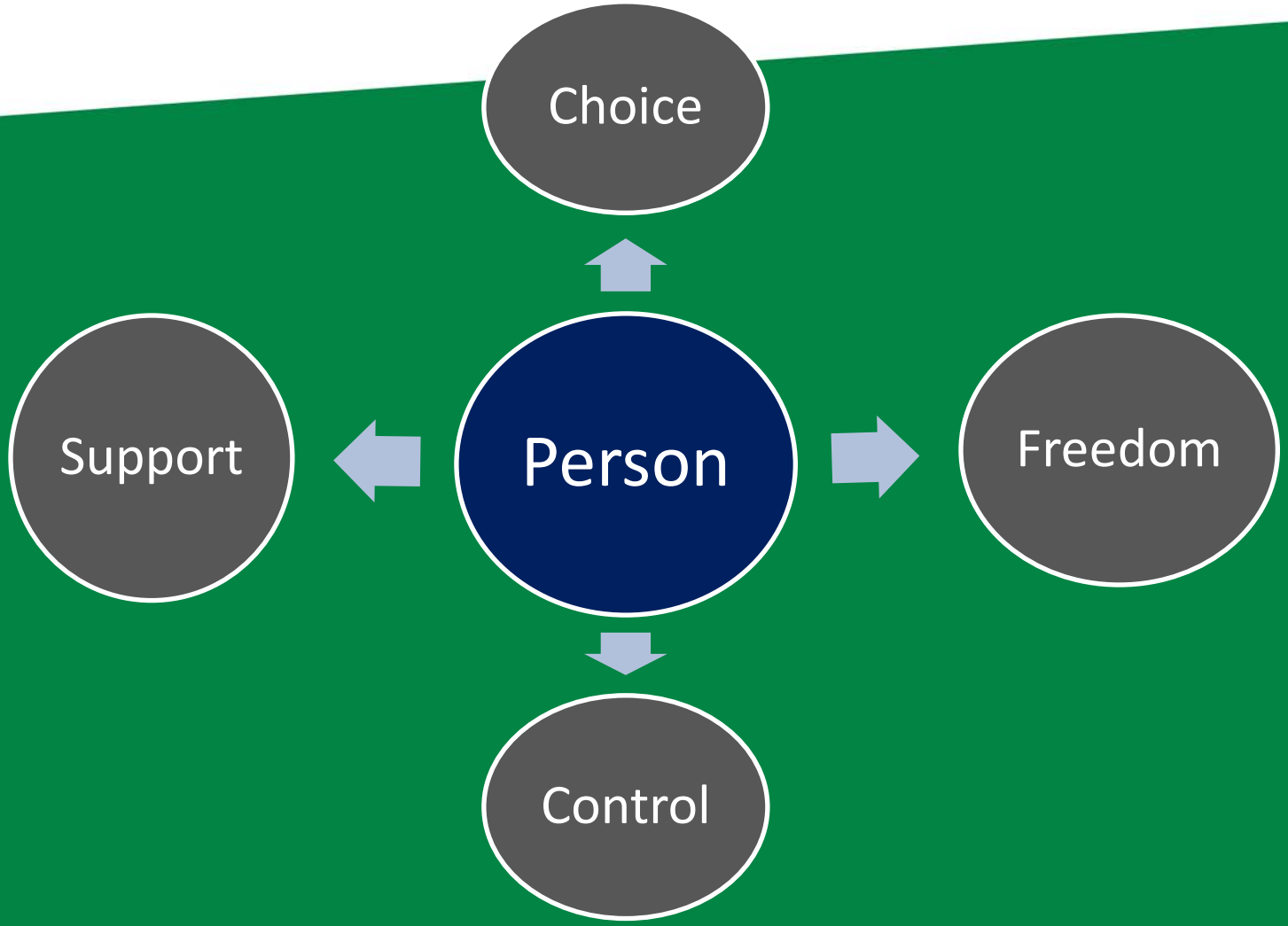
- Establishes qualities for what are true home and community-based services
- Establishes which settings are NOT home and community-based
  - Nursing Facility
  - Intermediate Care Facility for individuals with intellectual disabilities (ICF/IID)
  - Institution for Mental Disease (IMD)
  - Hospital

Overview of the HCBS Settings Rule

- Identifies which settings are PRESUMED INSTITUTIONAL and not home and community-based
  - Publicly or privately operated facility providing inpatient institutional treatment
  - Building on the grounds of, or adjacent to a public institution
  - Any other setting that has the effect of isolation from those not receiving HCBS services in the broader community

The Settings Rule is not an effort to shut down particular provider types or industries

What does this mean for INDIVIDUALS receiving HCBS services?



Characteristics of an HCBS Setting

- Setting is fully integrated and supports full access to the greater community
- Setting is selected by the individual from among settings options that include non-disability specific settings and the options for a private unit in residential settings

Characteristics of an HCBS Setting

- Setting ensures an individual's right to privacy, dignity and respect and freedom from coercion and restraint
- Setting optimizes individual initiative, autonomy, and independence in making life choices
- Setting facilitates individual choice regarding services and supports, and who provides them

Characteristics of a Provider Owned or Controlled HCBS Setting

- Unit or dwelling is owned, rented or occupied under a legally enforceable agreement
  - Individual have the same responsibilities and protections from eviction as tenants have under State, county, city or other designated landlord/tenant laws
  - If tenant laws do not apply, a residency agreement or other written agreement should be in place and include protections to address eviction processes and appeals

Characteristics of a Provider Owned or Controlled HCBS Setting

- Each individual has privacy in their sleeping or living unit
- Individuals have the freedom and support to control their own schedules, activities and have access to food at any time
- Setting is physically accessible

Characteristics of a Provider Owned or Controlled HCBS Setting

- Units must have lockable entrance doors
  - Only appropriate staff have keys as needed
- Individuals who are sharing units have their choice of a roommate
- Individuals can furnish and decorate their sleeping or living area
- Individuals can have visitors at any time

Any modification to these additional requirements for provider-owned home and community-based residential settings must be supported by a specific assessed need and justified in the person-centered service plan.

Characteristics of Person-Centered Planning

- Driven by the individual
- Includes providers and other supports chosen by the individual
- Includes necessary information to ensure the individual directs their care to the maximum extent possible
- Uses plain language
- Offers choice of settings as well as services and supports
- Includes information on how to request changes or updates

Case Manager's Role in PCP

- Accurately document the individual's strengths, needs, goals, and preferences
- Outline the services and supports that will be provided Be directed by the individual receiving services
- Assist the person in achieving a personally defined lifestyle and outcomes in the most integrated community setting
- Ensure the delivery of services in a manner that reflects personal preferences and choices
- Contribute to the assurance of health, welfare, and personal growth

Required for Modifications

- Individual specific and assessed need—
  - *What does the individual need?*
  - *What are the individuals' strengths?*
  - *What are their preferences?*
- Details about the prior positive interventions or supports used prior to any modifications
  - *What activities have been conducted prior to this modification that demonstrated the desired impact of decreasing the need for the intervention?*
  - *Did the individual learn a replacement skill or behavior?*

Required for Modifications

- Documentation of less intrusive methods of meeting the need that have been tried but did not work—
  - *What activities have been attempted prior to this modification that did not show progress for the individual?*
- A clear description of the condition that is related to the specific assessed need—
  - *what is the diagnosis of the individual and what are their needs?*

Required for Modifications

- Regular collection and review of data to measure the effectiveness of the modification
- Established time limits for periodic review of modifications or changes—
  - *How often will be modification be reassessed, or changes made for the individual*?
- Individual's informed consent
- Assurance that the modification will not cause harm to the individual

How staff can help facilitate PCP

- Promote understanding, respect, dignity and positive images of the individuals they support
- Support community connections that lead to full integration
- Ensure that supports are available to the person based on the person's desired outcomes and the individual's valued experiences
- Facilitate advocacy and discovery for individuals as they achieve their desired future

Person Centered Planning challenges previous practices and ways of doing things and encourages those supporting individuals with disabilities to look beyond what "exists" into what is possible, taking consideration of what is *Important To* the individual and striking a balance with what is *Important For* them as well.

Goals of Indiana's Statewide Transition Plan

- To work with individuals, providers and other stakeholders to transition services in order to effectively meet the requirements of the Settings Rule
- In coordination with providers and other stakeholders, we want to ensure individuals are fully integrated into the community, afforded choice, and have their health and safety needs met

Indiana's Statewide Transition Plan

- Overview of FSSA HCBS programs
- Review of the state's rule, regulations and policies from each FSSA division
- Initial assessment of sites
- Public input process and comments
- Remediation process
- Heightened scrutiny process

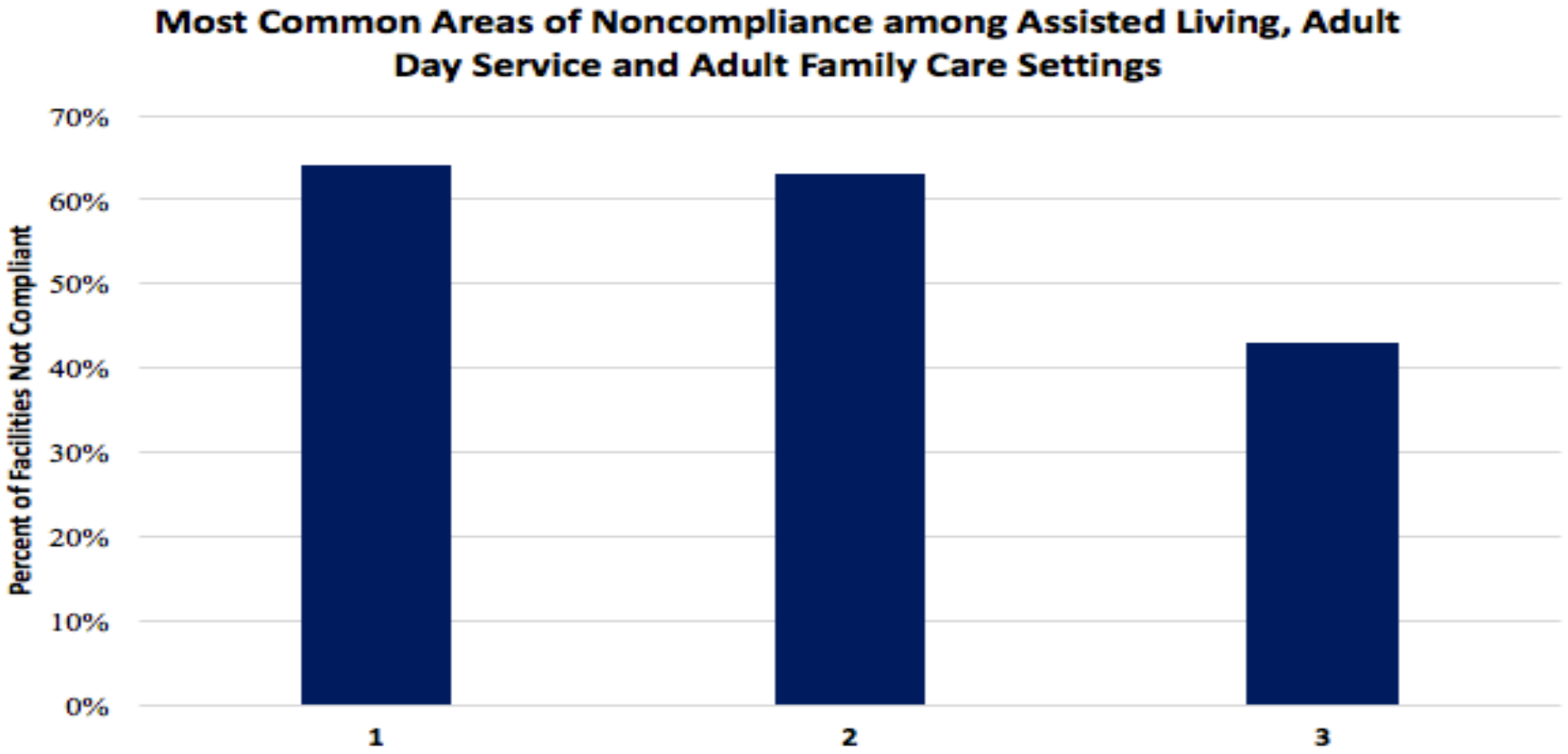
DA's Systemic Assessment

- Review of Indiana Code
  - IC 12-10-15 – Indiana law on housing with services
- Review of Indiana Administrative Code
  - 455 IAC 2 – DA rule on HCBS service providers and settings
  - 455 IAC 3 – DA rule on assisted living providers and Medicaid waivers
  - 410 IAC 16.2 – Indiana State Department of Health rule on licensure of residential care facilities
- Review of DA Medicaid Waiver Provider Reference Module

DA's Site Assessments

- Provider Self-survey
  - Fall of 2014
  - Not 100% completed
- Documentation review of policies and procedures
  - Winter of 2016
  - Not 100% completed
  - Will have to be part of remediation verification
- Site visits
  - Spring 2016
  - 100% of AL, ADS, and AFC site WITH active waiver consumers

Site Survey Results



1. Are residents able to freely move about inside and outside the site?
2. Are medications maintained and distributed in a way that promotes individual control and privacy?
3. Do meal times allow for flexibility in eating times?

Status of Indiana's Statewide Transition Plan

- Indiana received initial approval of the STP on November 8, 2016
  - Indiana is one of 14 states so far to receive initial approval
  - Tennessee is the only state with full approval
- Version 5 is posted on the state's Home and Community-Based Services Final Rule STP page
- Version 6 in development; public comment period will begin in January 2017

Next Steps

- Continue working with CMS to make updates as requested
- Begin remediation planning
- Identify sites for heightened scrutiny
- Final approval from CMS

Systemic Remediation

- Updating 455 IAC 2 (Current DA Provider Rule)
  - Adding requirements for HCBS settings to meet the requirements of the Settings Rule (42 CFR 441.301)
  - 455 IAC 3 (Assisted Living Rule) will be rolled into 455 IAC 2 (updated to 455 IAC 2.1)
  - Adding definition of person-centered service planning process
- Working with ISDH on residential care licensure requirements under 410 IAC 16
- Development of a new HCBS program
- Rely more on IC 12-10-15 (Housing with Services)

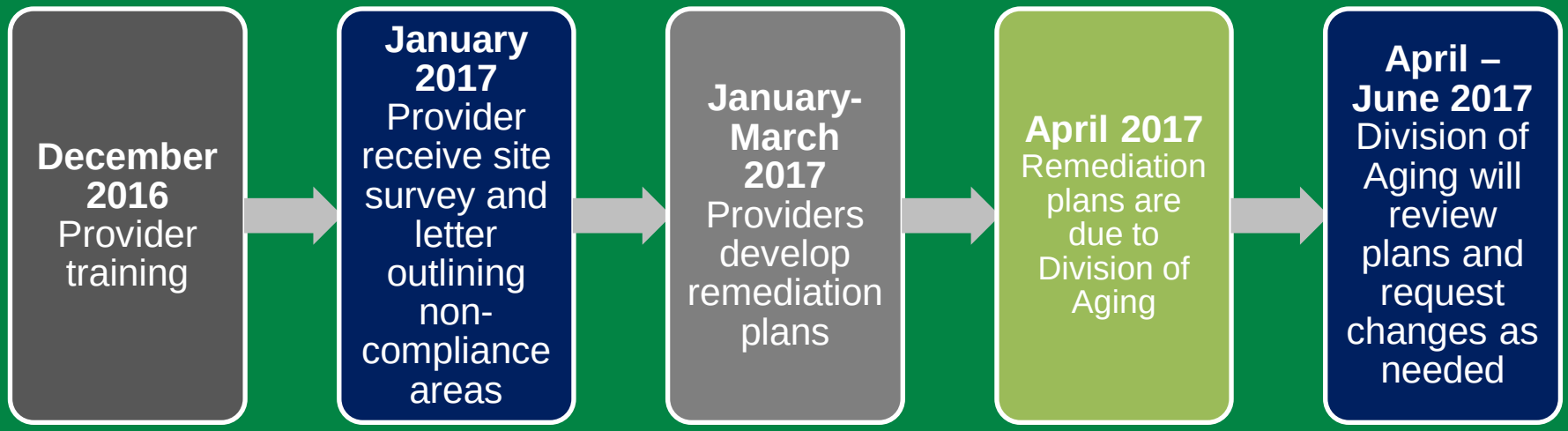
Initial Grouping of Settings	Description	Approximate Number of Sites/Individuals
Settings that are not HCB	NF, IMD, ICF/IID, hospitals	0/0
Settings that are presumed institutional	Co-located AL and ADS sites, AL sites with secured memory care	60/1638 (3/17 ADS sites, 57/1621 AL sites)
Settings that could meet compliance with remediation	AL and ADS sites that are not co-located and do not have secured memory care; all AFC sites	81/1743 (35/555 ADS sites; 21/44 AFC sites; 32/569 AL sites)
Settings presumed to meet requirements without any changes	All private residences that are not provider-owned or controlled	Max. 11,500/Approx. 11,500

Individual Site Remediation

- The State is responsible for ensuring 100% of all HCBS settings are in **FULL** compliance with the Settings Rule
- Each site may require remediation
- Sites will receive a copy of their site survey results from last spring
- Remediation plan will need to be submitted by the provider, approved by the DA, completed by the provider and then validated by the DA
- DA validation may include one or several resident interviews, case manager surveys, site surveys, and other monitoring activities

Remediation Process

Division of Aging Activities



Heightened Scrutiny

For settings that are presumed to NOT be HCBS compliant, the state can submit evidence to CMS demonstrating the setting does meet the requirements of being an HCBS setting; the state will only do so if the provider:

1) Demonstrates all the characteristics of an HCBS setting; and

2) Does NOT evidence any institutional characteristics.

Heightened Scrutiny

Evidence of compliance may include:

- Policy documentation
- Copies of lease/residency agreements
- Organizational charts
- Specialized training in dementia care and/or person-centered planning
- Redacted service plans
- Surrender of any institutional license

DA will review and validate evidence, and make a determination whether to submit evidence packet to CMS

Heightened Scrutiny Review

- DA validation similar to non-presumed institutional sites
- Interviews with participants and families
- Case manager input
- Public input BY SITE
- Submit packet to CMS for final decision on status as an HCBS setting

Ongoing Compliance and Monitoring of Settings

- Provider Compliance Reviews
- Participant-Centered Compliance Reviews
- Corrective Action Plans
- National Core Indicator (NCI) Survey
- Person-Centered Monitoring Tool
- Ongoing stakeholder engagement and outreach
- Participant surveys – quality of life

It's about the people….

….changing the locus of control from the provider to the individual.

The Thin Edge of Dignity

- Dr. Richard “Dick” Weinman
- Caregiver for his wife who had dementia
- Injured in an accident and then required ongoing long term care himself
- Lives in an assisted living community in Oregon

The Thin Edge of Dignity

A person-centered system is designed, scheduled and delivered to meet the needs and preferences of the individual, not the service provider.

Please pay close attention and think about the various settings we work within and about what types of person-centered practices might be put into place to better accommodate older adults and people with disabilities

Things to Think About

- When admitted, Dick became #108, his room number. When they do use his name, they call him Richard as opposed to his preference to be called Dick.
  - How would this make you feel?
- He worries that when he goes out with friends the bus won't pick him up in time for staff to get him ready for the evening meal.
  - What can a provider do to not be a barrier to community integration?

Things to Think About

- Another thing that Dick mentioned during the video is that those who are cognizant will close themselves off, stay in their rooms and will not engage.
  - Why do you think that happens? What could be done to change that?
- What Dick saw in the memory care community where his wife lived was no different than what he has experienced in the AL.
  - What do you think about that?

Lunch Break

Plan to return by 1:15

Adult Day Service session – Room A
Assisted Living session – Room B
Adult Family Care session – Room C