

Home & Community-Based Settings and Person-Centered Planning Federal Rule Changes

November 18, 2014



Agenda

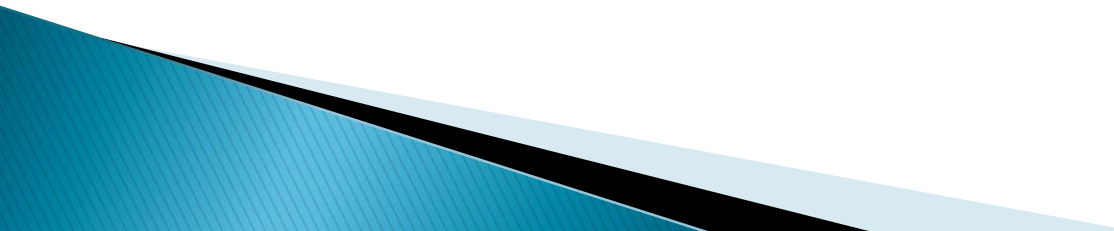
Today we will be talking about the new federal Rule concerning Home and Community Based Services. There are two important aspects to this Rule:

1. The Person-Centered Planning Process, which increases the person's input in how services are planned and what is included in the plan of care; AND

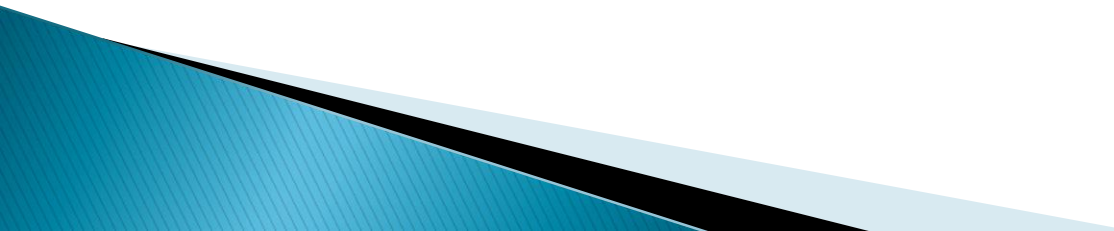
2. Home and Community Based Services Settings, which increases protections relating to where people receive Home and Community Based Services.

Note: You may hear Home and Community Based Services referred to as HCBS, and you may hear Person-Centered Planning referred to as PCP.

Why does the New Rule Matter to You?

- These rules will be applied to *everyone* receiving HCBS funded by Medicaid
 - All states must review their HCBS programs and services
 - HCBS providers have to look at where and how they provide services to you.
 - You will be asked to tell us about your experience in planning and receiving HCBS.
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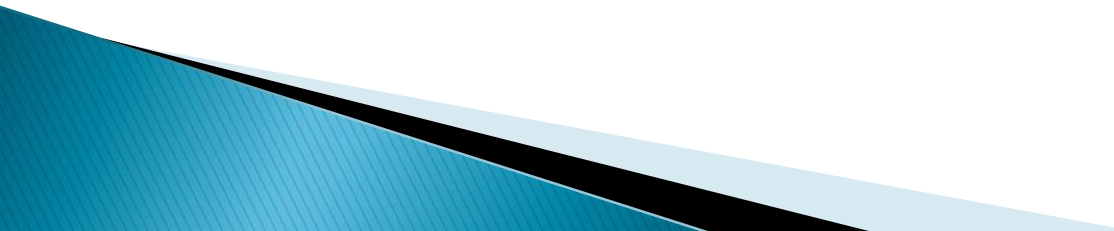
Person-Centered Planning Process

- The person-centered service plan for people in Medicaid HCBS programs must be developed through a person-centered planning process
 - Certain things must be included in the person-centered plan
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Person-Centered Planning Process

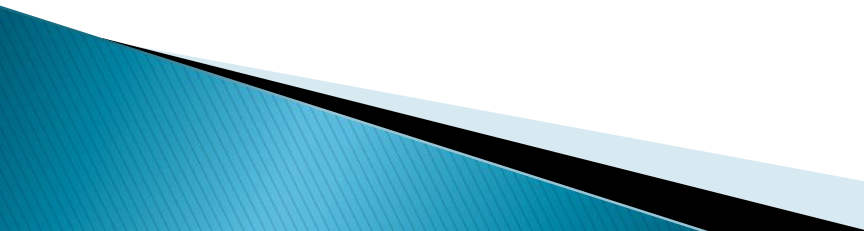
- The Person-Centered Planning process must:
 - Be directed *by the person served*
 - Include people chosen by the participant
 - Individuals will also choose who does not attend the planning meeting
 - Provide necessary information and support to the person to help direct the planning process as much as possible
 - Be timely and occur at a place and time that works best for the person

Person-Centered Planning Process

- The person understands the process and the service plan
 - The person chooses the setting to live in and receive services (from available and necessary services and taking into account their resources for community living expenses)
 - The person understands the services available, chooses services based on needs, and chooses the service provider
 - The service plan includes ways to solve conflict/disagreements
 - The person knows they can ask for an update to the plan at any time
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Person-Centered Planning

The Person-Centered Plan must include the person's:

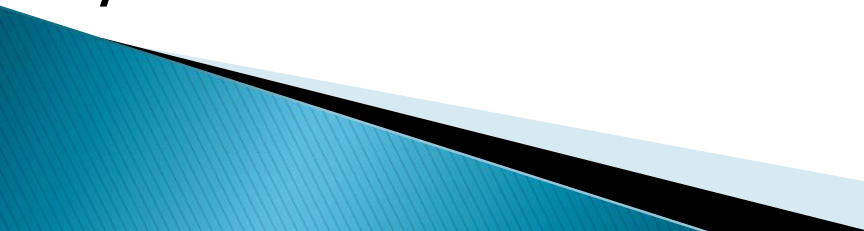
- Strengths and preferences
 - Goals and desired outcomes
 - Services and supports (paid and unpaid) that will help the person to meet their goals
 - Risk factors and how those risks will be prevented
 - Back-up plans
 - The setting in which the person lives/will live was chosen by the person and supports the person's opportunities to live and work in their community
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Person-Centered Planning

The Person-Centered Plan must:

- Be understandable to the person receiving services and supports, and to all the people important in supporting him or her
- Identify Natural Supports the individual will access
- Identify the Team and the Case Manager
- Be signed by the consumer and providers who will be providing the supports and services
- Be given to the person and other people and providers involved in the plan

Note: *The service plan must not include services that the person does not need or are not appropriate to support the person.*



HCBS Settings Final Rule

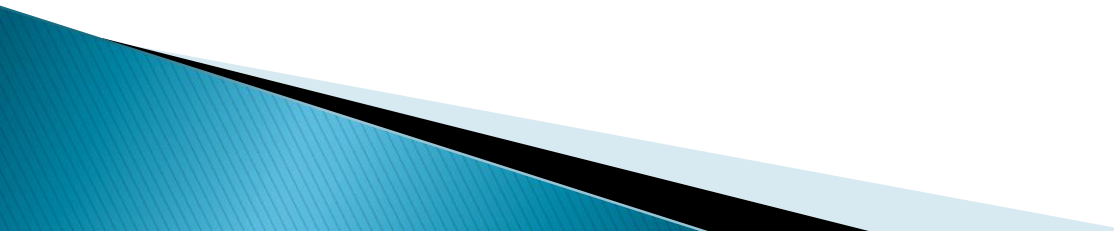
- For the first time, sets federal standards to ensure that Medicaid-funded HCBS are provided in settings that are **not institutional** in nature.
- These standards apply to residential and non-residential (for example, day program) services and settings.
- The rules focus on the *experience* of each person receiving services and supports
 - Are they living the life they want?
 - Can they work?
 - Are they part of their community?
- The goal is to ensure that every person receiving HCBS:
 - Has access to benefits of community living;
 - Has full opportunity to be integrated in their community;
 - Has enhanced protections

HCBS Settings

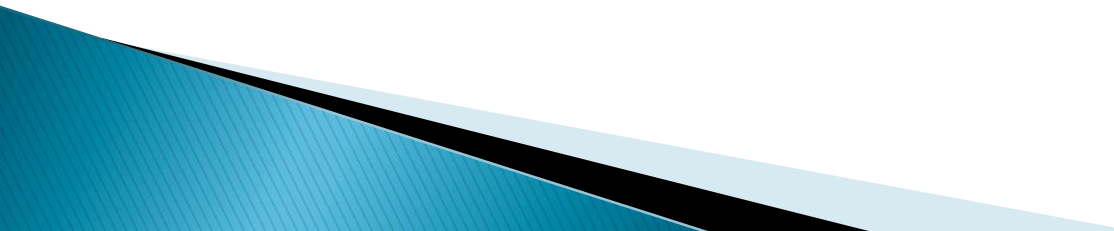
It's all about the person's experience.

- ▶ **Participation in the Community**
 - Setting must support full access to the community
- ▶ **Choice**
 - The person must be able to choose the setting from all options available
- ▶ **Rights**
 - The person must have the rights to privacy, dignity, respect and freedom from coercion and restraint
- ▶ **Independence**
 - Setting must maximize the person's ability to make life choices

Participation in the Community

- Is the setting a part of the community so that people can access and use their community?
 - CMS expects to see that people in Medicaid HCBS programs have the same chances as everyone else does to be in and use their communities – to find jobs, go to activities in their community, use the library, get a hair cut when and where they want, etc.
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Choice

- Is the setting selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting?
 - This means that the person must be able to choose where they live, not just be 'assigned' to live in a home or setting meant only for people with disabilities.
 - Also, this does not mean everyone gets a private unit. This means that if someone wants AND can afford to live alone, they must be given options of settings that include a private unit.
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Rights

- The setting must ensure the person has rights of privacy and dignity, and is treated with respect.
 - Is an individual's personal information posted in public and/or common areas?
 - Are people called by their preferred name?
 - The setting must ensure the person will have freedom from coercion and restraint (will not be forced to do things they do not want to do)

Independence


- The setting must support the person to maximize the ability to be independent in making life choices, this includes things like:
 - What I do each day
 - Where I live and how it is decorated
 - Who I hang out with
- The person must be supported to choose the services needed and who will provide them

Definitions

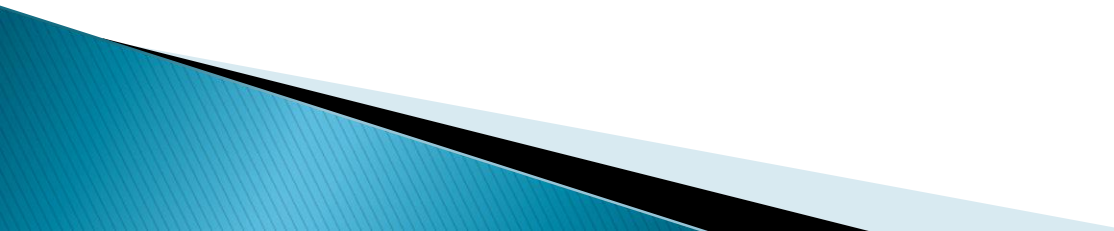
- ▶ Settings that are in compliance with HCBS
 - ▶ Settings that are **not** HCBS
 - ▶ Settings that are **presumed by CMS** not to be HCBS
 - ▶ Requirements for HCBS settings
 - ▶ What the State of Indiana must do to comply with the new CMS rules, including changes that are needed to comply with the new rules
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What Does Meet HCBS?

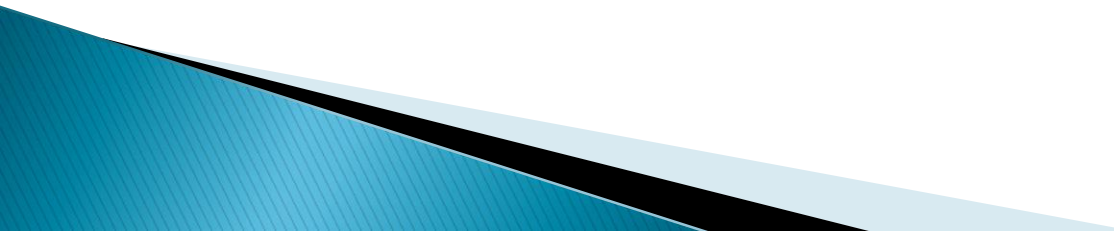
The Home and Community–Based setting:

- ▶ Is integrated in and supports access to the greater community
 - ▶ Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
 - ▶ Ensures that individuals receive services in the community to the same degree of access as individuals not receiving Medicaid home and community–based services
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What Does Not Meet HCBS?

- Nursing homes
 - Hospitals
 - Institutions for mental diseases (IMD)
 - Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
 - When Isolation is likely:
 - In a gated or secured “community”
 - Multiple settings located together and operated by the same provider
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What is Presumed not to Meet HCBS

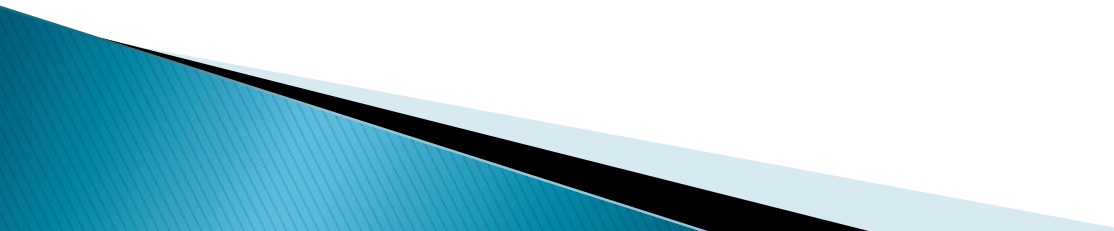
- Settings that have the qualities of an institution (this applies to residential and non-residential services):
 - Facilities or homes located in a public or privately-operated building that provides inpatient institutional treatment
 - Located on the grounds of, or right next to, a public institution
 - Has the effect of **isolating** individuals who receive Medicaid-funded HCBS from the broader community
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What is Questionable Under HCBS?

- Those settings that are presumed to not be HCBS may not be included in states' HCBS programs unless:
- The State submits evidence (including public input) to CMS showing that the setting *does* have the qualities of an HCBS setting and not the qualities of an institution;
- CMS agrees the setting meets HCBS setting requirements
 - CMS will require “strong evidence” to prove that a setting in the “presumed” category actually comports with HCBS rules

Residential Settings

The individual living in a residential setting has rights that the provider must honor. These rights are:

- Protection from eviction;
 - Privacy rights;
 - Freedom of choice;
 - Right to receive visitors at any time; and
 - A setting that is physically accessible
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Residential Settings

- **Privacy rights**

- The person must be able to lock entrance doors to their private space
- Only appropriate staff can also have a set of keys
 - The person should have a say in, and agree to, which staff members have keys
- Choice of housemate(s) when applicable
- Freedom to furnish and decorate personal space

Residential Settings

- Freedom of choice
 - The person must have freedom and support to control his or her schedule, activities, and have access to food at any time
 - The person must have the ability to access the community and participate in community activities, including accessing public transportation
 - The person must have access to food, not just snacks, 24/7, including control in selecting food, storing food in his or her room, eating in his or her room, and deciding when to eat

Residential Settings

- **Right to receive visitors at any time**
 - The person has the right to receive any visitor at any time of day, including overnight
 - However, all visitors must be within the limits of the lease to avoid a 'visitor' who moves in
- **Physically accessible**
 - The person has the right to settings that they are able to access both in inside and around the outside
 - For example: Are there any steps, lips in a doorway, or narrow hallways that might make it hard for the person to get around?

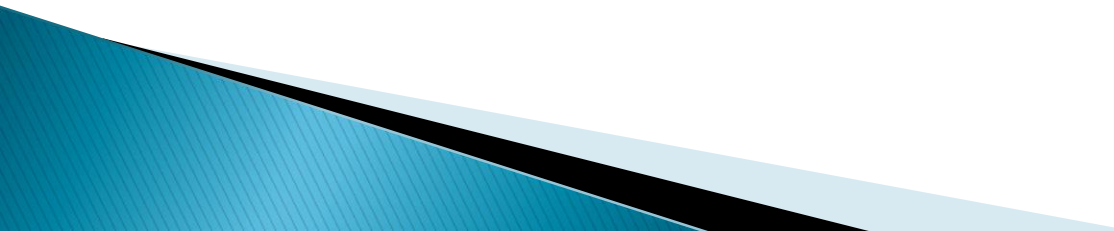
When following the rule doesn't make sense for the person...

- There may be times that **not** following the new rule is necessary to protect the health and safety of the person.
 - For example, “access to food 24/7” may not be safe for a person who has diabetes, Prader Willi syndrome, etc.
 - Freedom to come and go may not be safe for some people

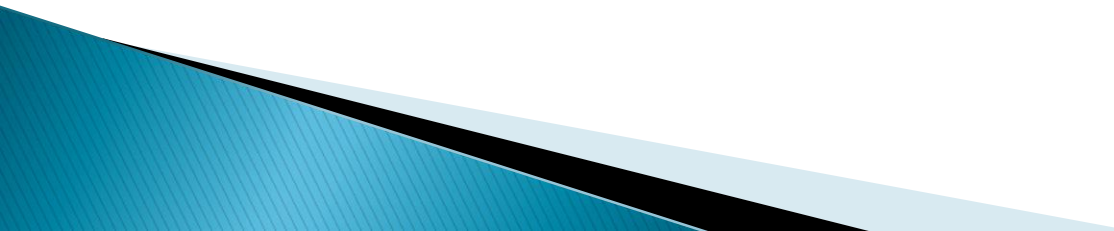
When following the rule doesn't make sense for the person...

- Anytime some part of the new rule can't be followed for a specific person, these steps are required:
 - You must first try other strategies (that would comply with the new rule) and document that they didn't work
 - The specific part of the rule that won't be followed must be included in the service plan, along with the reason why
 - The person or representative must agree (This means that a person or representative has control over any requested change and can say no.)
 - The provider must assure that not following that part of the new rule will not cause harm to the person
 - Data is collected to show that the change is working
 - The Team and the Case Manager review this part of the person's plan at specific times to make sure it's still necessary

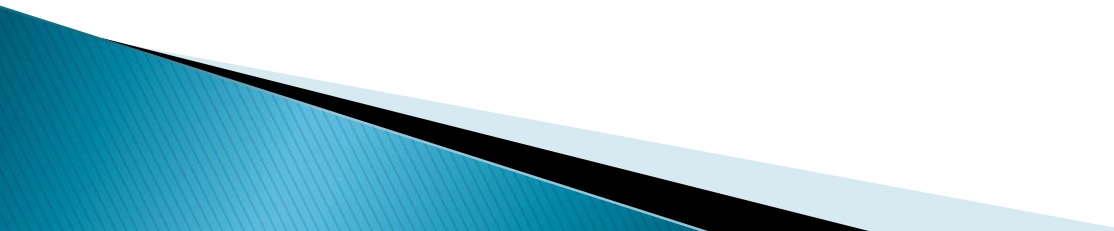
HCBS Assessment

- ▶ Every State must assess its HCBS programs to determine if they comply with the new rule.
 - ▶ Every State must write a Transition Plan that shows how they will make changes in their HCBS programs and services that are needed in order to comply with the new rule. States renewing or amending a waiver must submit their plan with that waiver renewal application or amendment.
 - ▶ Every State must get input from consumers, families, providers, advocates and other stakeholders on the plan.
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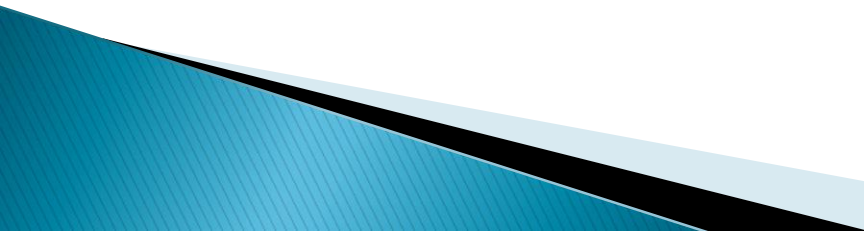
Indiana's Assessment Activities to Date

- ▶ National Core Indicators Data Review
 - ▶ Review of Indiana's Policies, Rules, Regulations, Requirements and Procedures
 - ▶ Preliminary Setting Assessment Based on HCBS Requirements
 - ▶ Transition Plans posted for public input
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Planned Assessment Activities

- ▶ Individual Experience Surveys
 - ▶ Site Specific Assessments
 - ▶ Comprehensive Settings Results
 - ▶ Public Transparency
 - Input from providers and individuals/families on what kind of evidence should be required to prove that a setting is compliant with HCBS
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Post Assessment Remedial Strategies

- ▶ Description of Indiana's Remedial Strategies
 - ▶ Revisions to Indiana Administrative Code
 - ▶ Revisions to DDRS Waiver Manual
 - ▶ Revisions to Internal Forms
 - ▶ Participant Rights and Responsibilities
Policy/Procedure Modifications
 - ▶ Review and Revisions to Provider Enrollment
 - ▶ Development of a Corrective Action Process and Plan
 - ▶ Develop Process for Provider Sanctions and Dis-enrollments
 - ▶ Ongoing Monitoring of Compliance
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Public Input

- ▶ **Public Relations and Education**
 - Provider Meetings
 - Family Calls / Webinar
 - DDRS Advisory Council
 - INARF Quarterly Meeting
 - Public Comment Period
- ▶ **Summary of comments and modifications from public input will be provided to CMS and posted on the DDRS Website**

Your Questions

Thank you



Resources

Transition Plans for FSW and CIHW:

<http://www.in.gov/fssa/ddrs/4205.htm>

FSSA Statewide Transition Plan:

http://www.in.gov/fssa/files/Indiana_Statewide_Transition_Plan_Final_October_30_2014.pdf

Medicaid HCBS Page:

<http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services.html>

Regulatory Requirements for Home and Community-Based Settings:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Downloads/Requirements-for-Home-and-Community-Settings.pdf>