The Home and Community Based Settings Final Rule

Utah’s Progress on the State Transition Plan
The final rule establishes:

- Mandatory requirements for the qualities of home and community-based settings including discretion for the Secretary to determine other appropriate qualities
- Settings that are not home and community-based
- Settings presumed not to be home and community-based
- State compliance and transition requirements
HCBS Setting Requirements

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 the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services
HCBS Setting 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
HCBS Requirements for Provider-Owned or Controlled Residential Settings

Additional requirements:

• Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement

• Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity

• If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law
HCBS Requirements for Provider-Owned or Controlled Residential Settings

- 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
- 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 which includes:
  • Specific individualized assessed need
  • Prior interventions and supports including less intrusive methods
  • Description of condition proportionate to assessed need
  • Ongoing data measuring effectiveness of modification
  • Established time limits for periodic review of modifications
  • Individual’s informed consent
  • Assurance that interventions and supports will not cause harm
Settings that are NOT HCBS or Presumed NOT HCBS

Settings that are NOT HCBS:
• Nursing Facilities
• Institution for Mental Diseases (IMD)
• Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
• Hospital

Settings Presumed NOT to be HCBS:
• 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 HCBS
Utah’s Transition Progress

Utah was required to submit a plan within one year of the effective date of the final rule; The Plan included elements, timelines, and deliverables as required by the Centers for Medicare and Medicaid Services

Transition Plan Progress:
- Preliminary Categorization of Sites
- Provider Self-Assessments
- State Review and Validation Site Assessments
- Systemic and Site Remediation
## Site Assessment and Remediation Processes

<table>
<thead>
<tr>
<th>Action Item</th>
<th>Timeline</th>
</tr>
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<tbody>
<tr>
<td>State returns findings from Self-Assessments to providers</td>
<td>1/31/2018</td>
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<tr>
<td>Validation site visits by the State</td>
<td>2/28/2018</td>
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<tr>
<td>Providers submit remediation plans to the State</td>
<td>60 days</td>
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<tr>
<td>Remediation feedback provided by the State</td>
<td>60 days</td>
</tr>
<tr>
<td>Provider rebuttal option</td>
<td>30 days</td>
</tr>
<tr>
<td>State rebuttal response</td>
<td>30 days</td>
</tr>
<tr>
<td>Final remediation plan required</td>
<td>12/1/2018</td>
</tr>
<tr>
<td>Heightened scrutiny cases submitted to CMS throughout the assessment process as needed</td>
<td>As needed</td>
</tr>
<tr>
<td>Full compliance required by all HCBS providers</td>
<td>10/01/2020</td>
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</tbody>
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State Self-Assessment and Remediation Plan

The purpose of the State-Assessment Report (document 2) is to summarize the review of the self-assessments submitted by your agency.

- If Overall Compliance is “Yes” there is no remediation plan or further action required at this time
- If Overall Compliance is “Partial” the submission of a Remediation Plan is required (document 3)
Utah Settings Transition Resources

• HCBS Transition Home Page
  http://health.utah.gov/ltc/hcbstransition/

State Medicaid Agency Contacts

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Questions and Answers

This time has been reserved for questions related to the HCBS Settings Rule and Remediation Plan.

Thank you for your participation in this presentation.