The HCBS Transition Plan

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A new federal Rule

An important federal Rule took effect on March 17, 2014. There are three parts to the new Rule:

- **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;**
- **Conflict-free case management; *AND***
- **Home and Community Based Services Settings, which increases protections relating to where people receive Home and Community-Based Services.**

42 CFR 441.301

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Person-Centered Planning

What's different about person-centered planning?

- **The individual leads Person-Centered Planning process;**
- **Our providers are valuable team-mates and must be included in *all* aspects of the planning process;**
- **The individual understands the services available, chooses their services based on their needs, and chooses their service providers.**

The person-centered plan must include:

- **Strengths and preferences;**
- **Both clinical and support needs (medical or behavioral needs and HCBS needs);**
- **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;**
- **Emergency back-up plans;**
- **The setting in which the person lives/will live, which was chosen by the person and which supports the person's opportunities to live and work in their community.**

What's new about person-centered planning?

- **We have been using the Personal Focus Worksheet (PFW) with the people we support and their families for about two years;**
- **There are great things about the PFW but it's long and repetitive;**
- **It also hasn't sufficiently included our providers;**
- **We are going to streamline the document and expect that teams will develop it together, unless the person or their legal representative objects.**

Conflict-Free Case Management

Elements of Conflict-Free Case Management

- **States must establish conflict of interest standards for the assessments of functional need and the person-centered service plan development process that apply to all individuals and entities, public or private.**
- **Minimally, this must require that individuals are not:**
  1. **Related by blood or marriage to the individual, or to any paid caregiver of the individual;**
  2. **Financially responsible for the individual;**
  3. **Empowered to make financial or health-related decisions on behalf of the individual;**
  4. **Individuals who would benefit financially from the provision of assessed needs and services; and**

5. **Providers of State Plan HCBS for the individual, or those who have an interest in or are employed by a provider of State Plan HCBS for the individual, except when the State demonstrates that the only willing and qualified entity/entities to perform assessments of functional need and develop person-centered service plans in a geographic area also provides HCBS, and the State devises conflict of interest protections including separation of assessment/planning and HCBS provider functions within provider entities, which are described in the State Plan, and individuals are provided with a clear and accessible alternative dispute resolution process.**

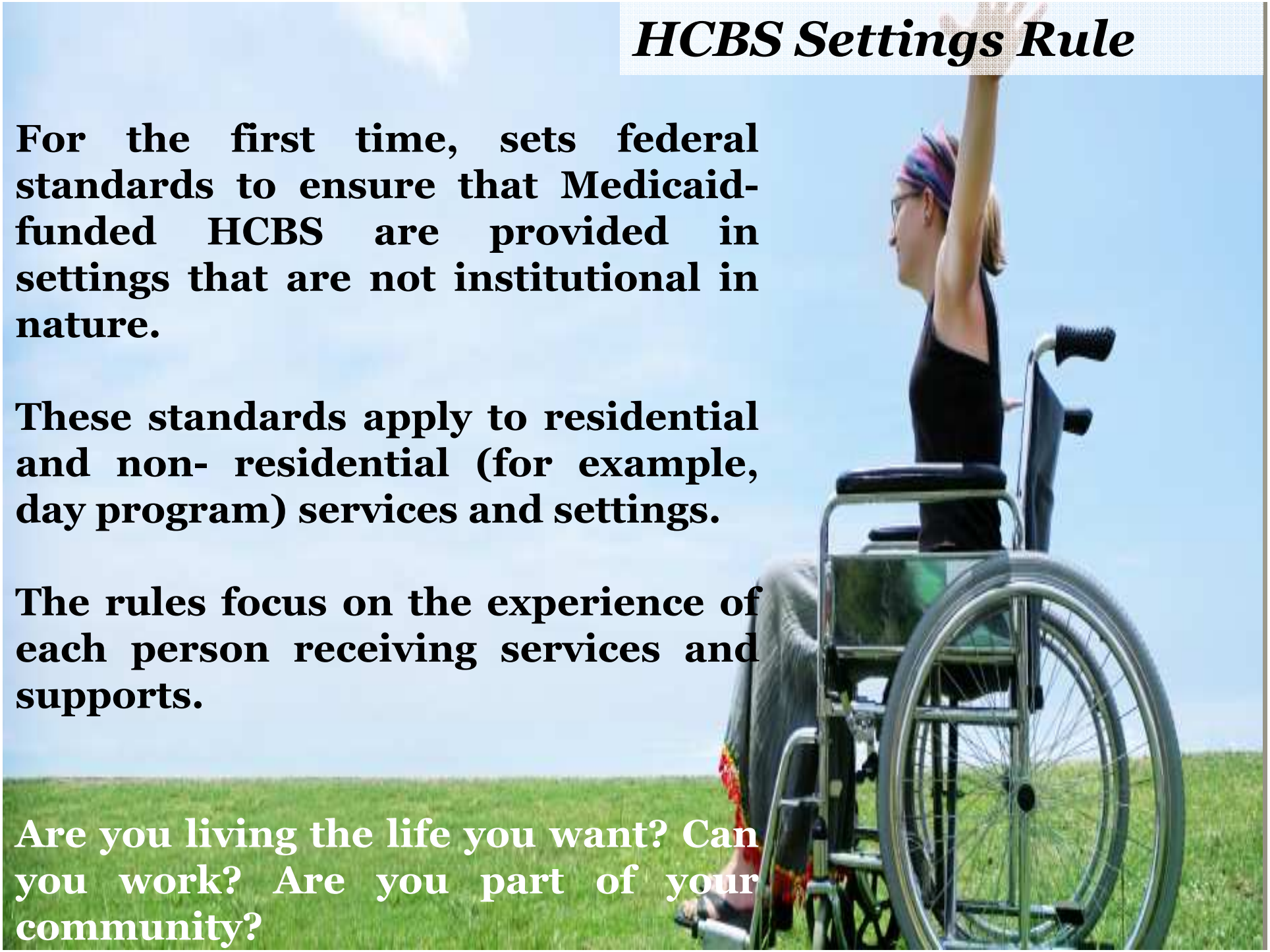

HCBS Settings

HCBS Settings 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 you living the life you want? Can you work? Are you part of your 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; and**
- **Has enhanced protections.**

The Rule mandates that settings:

- ✓ **Are integrated in and support full access to the greater community;**
- ✓ **Are selected by the individual among setting options including non-disability specific settings;**
- ✓ **Ensure the rights of privacy, dignity and respect, and freedom from coercion/restraint;**
- ✓ **Optimize, but do not regiment, individual initiative, autonomy, and independence in life choices; and**
- ✓ **Facilitate choice in services and who provides them.**

Provider-operated or controlled settings requirements

- Legally enforceable or other written agreement;
- Privacy in living/sleeping unit;
- Freedom to control schedules and access food at any time;
- Have visitors at any time; and
- Be accessible to the individual.

Providers must meet additional requirements if any modifications to the above are implemented

Settings that do not not meet the federal Rule

- **Nursing facilities;**
- **Institutions for mental disease;**
- **Intermediate care facilities for individuals with developmental disabilities (ICF/DDs);**
- **Hospitals; *and***
- **Any other setting with the qualities of an institutional setting.**

What have we been doing to comply with the Rule?

- **An initial self-assessment of our residential providers;**
- **Initial visits to settings that might be considered institutional;**
- **Analysis of our statutes and Rules to identify where changes are needed;**
- **Reached out to stakeholders to get your input;**
- **Posted the Plan on the DDD website;**
- **Submitted a draft Transition Plan to CMS on 12/01/2014;**
- **Received comments from CMS;**
- **Reviewed the comments with our Division of Medicaid partners;**
- **Received permission from CMS to resubmit the Plan.**

Why are we resubmitting the Plan?

- **We need to do more assessing of our residential and day settings to ensure that we give our providers the necessary feedback and technical assistance to meet the requirements of the federal Rule;**
- **A team of SCs will be going out with a newly improved tool to assess our providers;**

Providers will be given full opportunity to respond to the assessment findings *because*

- **We want our provider agencies to be successful;**
- **NO agencies/programs will be 'grandfathered;'**
- **ALL must come into compliance; and**
- **We are going to post final findings of the assessments.**

Why are we resubmitting the Plan?

- **We want to work closely with our stakeholder community and the Division of Medicaid to identify and make improvements in how we fund and provide services and supports;**
- **Developing the Plan in partnership with all of you is an important step in making these improvements.**

Why are we resubmitting the Plan?

We want to spend more time with you, our stakeholder community, talking about what the Rule means and its impact on our service system.

Your opinion matters!

Our Next Steps

- **Conduct an assessment of all of our residential and day services programs in the next three months;**
- **Analyze the findings and determine where we need to acknowledge the need for heightened scrutiny;**
- **Draft an amended Transition Plan and request public comment on it;**
- **Finalize the Plan and submit it to CMS no later than May 31, 2016.**

Questions?

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http://dhhs.ne.gov/developmental_disabilities/Pages/developmental_disabilities_index.aspx