



Fact Sheet: Home and Community-Based Services Final Rule

WHAT ARE HOME AND COMMUNITY-BASED SERVICES AND SERVICE SETTINGS?

The federal government helps pay for most of the services and supports New York provides to older adults and people with disabilities and disabling conditions through its Medicaid program by providing a 50 percent match to the State funds spent. One type of service that is offered under Medicaid is called home and community-based services, also called HCBS. These are services such as home care, personal care, or care which allows people to continue living in a home-like setting rather than in larger institutions (example: nursing homes or institutions for mental diseases) to receive support to manage their day-to-day lives. In March 2014 the new rules laid out within the HCBS Final Rule became effective describing how Medicaid-funded home and community-based services are to be delivered by states and home and community-based service providers in general.

Home and community-based settings are also places where older adults and people with disabilities or disabling conditions live and/or spend their days; for example, licensed assisted living facilities, day programs and group homes. The new rules explain what these settings should be like, as well as how the service planning process for people's services and supports should work.

All services in every state must follow the new HCBS rules by March 17, 2022. After March 2022, the federal government will not provide funding for services that do not meet the new rules.

WHAT ARE THE NEW RULES ABOUT?

The purpose of the rules (also called standards) is to ensure that people receive services in settings that are integrated in, and support full access to, their community. This includes opportunities to seek employment and work in competitive settings (i.e., where people receive standard wages) within the community, engage in community life, control personal resources, and receive services in a similar way as individuals who do not use HCBS services. It means that HCBS programs or settings need to focus on the nature and quality of individuals' experiences and not just on the buildings and safety procedures in place where the services are delivered. These federal standards apply to all HCBS provided through New York's 1915(c) waivers, Community First Choice Option, Managed Care and Managed Long Term Care.

In addition to the above, home and community-based services and service settings must also:

- be selected by the individual from among the options available;
- ensure rights of privacy, dignity, respect, and freedom from coercion and restraint;
- optimize an individual's autonomy and independence in making life choices;
- facilitate an individual's informed choice about their services and who provides them;
- are physically accessible to the individuals supported;
- provide freedom and support for individuals to control their own schedules and activities; and
- provide individuals access to food (meals and/or snacks) and visitors at any time.

The last two standards listed above are the only ones that may be changed or modified, and only on a case-by-case basis for a specific individual, if it is done:

- when there is a *specific need* that has been identified that a person requires staff support for (a diagnosis alone is not enough information to support a modification);
- on a time-limited basis (reassessing periodically to see if the modification is still needed);
- after less restrictive and more positive approaches were tried and failed.



WHAT IS THE PERSON-CENTERED PLANNING DESCRIBED IN THE HCBS FINAL RULE?

Individuals who receive home and community-based services are required to have an active role in the development of their plan for services and supports, and a planning process that is truly centered around them and what is important to them.

In addition to the settings standards on page one, the federal HCBS Final Rule also requires a person-centered planning process. This process must:

- provide necessary information and support to the individual to ensure that they can direct their planning process as much as possible;
- include people chosen by the individual;
- be timely and occur at least annually at times and locations of the individual's convenience;
- assist the person in achieving outcomes they define for themselves and in the most integrated community setting(s) they desire;
- ensure delivery of services in a manner that reflects personal preferences and choices;
- help promote the health and welfare of the person receiving services;
- take into consideration the culture of the person served;
- use plain language;
- include strategies for solving disagreement(s);
- offer choices regarding the services and supports the person receives and from whom;
- provide a method for the individual to request updates to their plan;
- indicate what entity or person will monitor the primary or main person-centered plan;
- identify individual's strengths, preferences, needs (both clinical and support), and desired outcomes.

WHAT IS A TRANSITION PLAN?

New York drafted a Statewide Transition Plan to describe how it will move forward and ultimately follow the new rules. All states had to assess their laws, regulations, policies, and settings where services are provided to see if they are following these new rules. New York's Statewide Transition Plan describes how it will meet the new rules, how it will change the areas that do not comply, and how it will maintain a review process to assure ongoing compliance. New York has made a lot of progress and is aiming for the March 2022 federal deadline to complete everything that is required to maintain federal funding for these services.

WHAT DOES ALL THIS MEAN TO ME?

- If you are a service provider, it means that you will likely need to make changes in how you operate in order to meet the new federal rules by modifying policies and program designs, where and how your service is delivered, and providing training to ensure that your staff members understand the expectations of the rules.
- If you are an individual who receives services, it means that you may have different options to choose from regarding services and service providers. There will be a focus on individuals being involved in the community; for example, shopping, attending religious/spiritual services, dining out, employment, etc.

For additional questions, please feel free to email New York's HCBS Final Rule technical assistance team at: HCBSrule@health.ny.gov