

Statewide Transition Plans (STPs)

HCBS Implementation: An Overview of Tennessee's Statewide Transition Plan & Engagement of Stakeholders

May 26, 2016

1:30-3:00 p.m. ET

AGENDA

- **Welcome and Introductions**
- **Status of CMS' Activities with States in Implementing the HCBS Settings Rule**
- **Importance of Stakeholder Engagement & Advocacy in HCBS Implementation Process**
- **Overview of Tennessee's Approach to Implementing the Federal HCBS Settings Rule – and How YOU Can be Engaged in Your State's Implementation Activities**
- **Q&A Session with Participants**

Welcome and Introductions

*Jodie Anthony, Senior Policy Analyst,
Disabled & Elderly Health Programs Group
(DEPHG), CMS*

Status of CMS' Activities with States in Implementing the HCBS Settings Rule

*Ralph Lollar, Director of LTSS,
Disabled & Elderly Health
Programs Group (DEPHG), CMS*

Importance of Stakeholder Engagement & Advocacy in HCBS Implementation Process

- ❖ *Alison Barkoff, Director of Advocacy, Bazelon Center for Mental Health and Head of the HCBS Advocacy Coalition*
- ❖ *Joe Caldwell, Director of Long Term Supports & Services Policy, National Council on Aging*

Overview of Tennessee's Approach to Implementing the Federal HCBS Settings Rule – and How YOU Can be Engaged in Your State's Implementation Activities

- ❖ *Patti Killingsworth, Assistant Commissioner, Chief of LTSS, TennCare*
- ❖ *Michelle Jernigan, Deputy, LTSS Quality & Administration, TennCare*
- ❖ *Wanda Willis, Executive Director, Tennessee's Council on Developmental Disabilities*



TN

Ways **YOU** can support your
State's efforts to implement the
HCBS Settings Rule

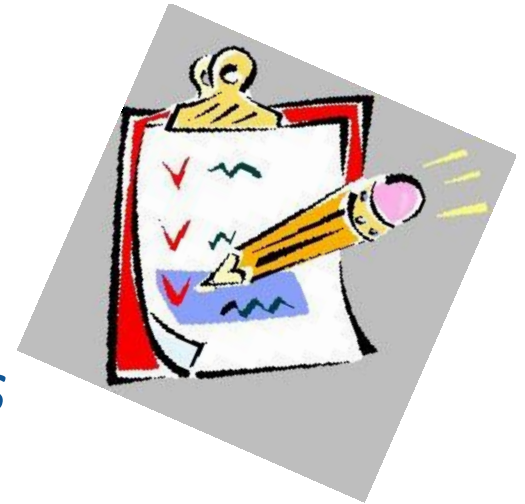
TM

Context for the Discussion

- **Not** here to tell you how your state should implement the rule
 - No “one right way”
 - Every state must work with the people they serve, their families, advocates and other stakeholders to determine the approach that makes the most sense for *their* state and *their* HCBS system
- Goal is to provide tools and share experiences that may be helpful to you in working with your state to formulate your state’s approach
- Goal is also to learn things from one another that will benefit *all of us* as we continue moving forward

Agenda

- Vision
- Approach
- How do we get there--*together*?
- What should we do first?
- Develop the process: *Plan to assess*
- Education and Input
- Rolling it out: *Assess to plan*
- Discovery/Remediation—finding things that need to change and changing them
- When choice meets rule
- Heightened Scrutiny
- Ongoing Review and Monitoring
- How **YOU** can get involved in your state's efforts



Vision

- **Begin with the end in mind –**
What's our vision for Tennessee?
What's the vision for **your** State?
- **At the end of the process –**
 - What do we want to be able to say?
 - How do we want to communicate the process and the results?
 - What do we want to achieve?

Not just compliance, but
Better lives for the people we support

Tennessee's Approach

- Comprehensive statewide approach across Medicaid programs and authorities
 - 1115 MLTSS (**managed care**) program
 - 3 Section 1915(c) **fee-for-service** HCBS waivers
- Full compliance as soon as possible—*before* 2019
- Not just *what we think* but *what we know* (100% assessment of every site and review/validation)
- Leverage contractor relationships (expand capacity)
- Minimize provider (and administrative) burden, where possible
- Leverage technology for data collection and analysis

Approach

- Inform and engage stakeholders in meaningful ways
- Meet the *spirit* and *intent* of the regulation
- Leverage *the opportunity* to move the system forward and improve people's lives
- Embed in ongoing processes (not just “one and done,” but a continuous process)

Approach – Engaging Stakeholders

How do we **inform and engage** stakeholders (persons served, families, advocates, providers, etc.) in meaningful ways?

- Leverage advocacy organizations, providers, etc.
 - To review invitations and materials for persons served/families and advise the state on content and readability
 - To disseminate information (invitations to meetings/webinars, informational materials, proposed transition plan, etc. to individuals and families
 - To support and encourage their participation and input
- Require providers to include persons served, families, and advocates (external to their organization) in stakeholder group for provider specific self-assessment and transition plan process

How do we get there?

- **Determine what is needed to tell the story—at**
 - Stakeholder input
 - Data
 - Proof of compliance
 - **Member experience**
- **How many people on our team when we started? 5**
- **How many settings? 1245**

Develop the Process: *Plan to Assess*

- **Break it down into manageable steps**
 - Self-assessments
 1. State (Systemic)
 2. Contractors (Systemic)
 3. Providers (Site-specific)
 - Validation of contractor and provider self-assessments and transition plans
 - **Individual Experience Assessments**
 - Monitor implementation of transition plans
 - Monitor/assure ongoing compliance

Develop the Process: *Plan to Assess (2)*

- **Training**

- Individuals receiving HCBS and families/representatives/advocates
- Providers
- Designated reviewers (contracted operating entities)

Develop the Process: *Plan to Assess (3)*

State (Systemic) Self-assessment

- What do we need to look at?
 - *Everything* that impacts HCBS and the people who receive them
 - Licensure requirements
 - Contracts
 - Managed Care Organizations
 - Department of Intellectual and Developmental Disabilities
 - Fiscal Employer Agent
 - ADRCs - Single Point of Entry
 - State statutes
 - Rules
 - Waiver language

Develop the Process: *Plan to Assess* (4)

State (Systemic) Self-assessment

- What do we need to look at?
 - *Everything* that impacts HCBS and the people who receive them
 - Policies
 - Procedures
 - Protocols
 - Practices
 - Reimbursement methodologies
 - Billing practices
 - ... (yes, there's more)

Develop the Process: *Plan to Assess (5)*

Contractor Self-assessment

MCO s (MLTSS—managed care)

- Policies & Procedures
- Provider Agreements
- Provider Manual
- Provider Credentialing Requirements
- Staff Training Materials
- Quality Monitoring materials and processes

Dept. of I/DD (1915(c)—fee-for-service)

- Policies & Protocols
- Provider Agreements
- Provider Manual
- Provider Credentialing Requirements
- Staff Training Materials
- Quality Monitoring materials and processes

Develop the Process: *Plan to Assess (6)*

Provider Self-assessment

- **We need data—how will we collect it?**
 - Provider self-assessments
 - Online survey tool (export to excel, slice & dice)
 - Create tool in fillable document that matches survey
 - Specific instructions
- **How do we get proof of compliance?**
 - Document review
 - On-site visits
- **How will know this is accurate?**
 - Require stakeholder involvement
 - *Ask the people receiving HCBS!*

Develop the Process: *Plan to Assess (7)*

Individual Experience Assessment (IEA)

- Developed from the CMS Exploratory Questions
- Administered by contracted case management entity
 - Independent Support Coordination agency
 - I/DD Dept. Case Manager
 - MCO Care Coordinator
- Phase I - individuals receiving residential and day services
- Phase II - embed in annual planning process for **all** persons receiving HCBS
- Data from IEA is cross-walked to the specific provider/setting in order to validate site-specific provider self-assessment results
- 100% remediation of any individual issue identified; thresholds established (by question) for additional remediation actions, e.g., potential changes in site-specific assessment, transition plan, policies, practices, etc.

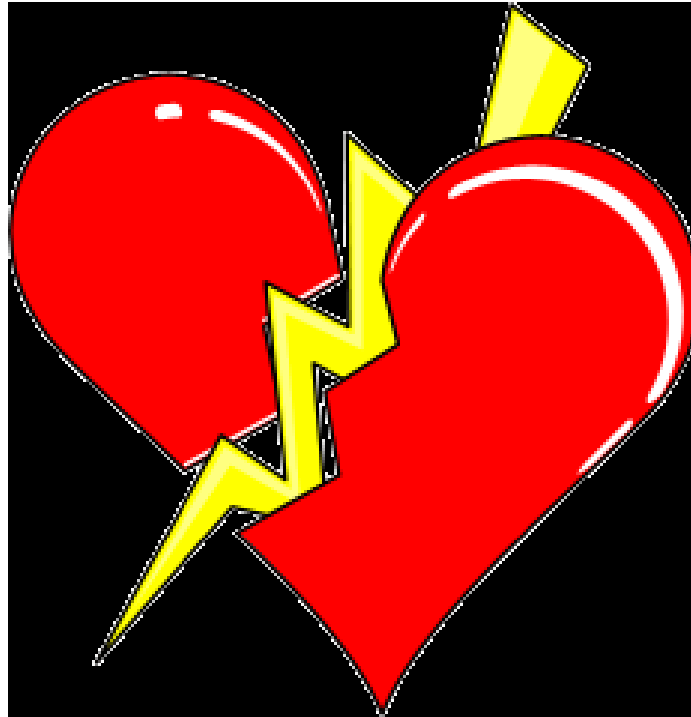
Now what? Education and Input

Tell people about the Rule!

- **Communicate with consumers, families, providers and advocates**
 - Open, posted introductory letter to the new rule
 - Educational materials (FAQs) and training
 - Disseminate through advocacy groups and providers
 - Consumer/family and advocate information sessions (again and again...)
 - Opportunities to ask questions
 - Structure public input, but leave room for more...
 - Accommodations
 - Extension

Now what? Education and Input (2)

And they loved it, right?



- *Adjust the plan as needed based on public comment.*

Now what? Education and Input (3)

Keep telling people about the Rule!

- **Communicate *again* with individuals/families/advocates**
- **Communicate *again* with contractors**
- **Communicate *again* with providers**
 - More information sessions (again and again...)

Rolling It Out: *Assess to plan (Site-specific)*

Provide *extensive* training

- **Train providers**
 - Detailed walk through of each tool and expectations
 - Self-assessment form (literally, each question)
 - Accessing the survey
 - Validation form
 - Transition plan
 - Demonstration of the survey
 - Expectations for document submissions
 - Stakeholder involvement requirement
- **Implement the provider self-assessment process**
- **Monitor submission progress**

Rolling It Out: *Assess to plan (Site-specific) Continued*

Validation process

- **100% review and validation of self-assessment and transition plan required**
 - Leverage contracted entities (MCOs, I/DD agency) for 100% review (versus smaller sampling approach)
 - Standardized template
- **TennCare validation**
 - Initial reviews from each designated reviewer prior to sending to provider
 - Sample review at the conclusion of the process
 - Complicated settings
 - Upon request
- **On-site visits**

HCBS Implementation:

Discovery and Remediation:

*Finding what needs to change
and changing it*

HCBS Implementation

Systemic (State) Assessment

Discovery and Remediation: Systemic Assessment

- Opportunities to change certain State “standards” applicable to each HCBS setting
 - 1115 and 1915(c) waivers
 - State statute
 - State Administrative Rules
 - State contracts

Discovery and Remediation: Systemic Assessment (2)

- Additional “opportunities” identified with respect to documents and processes that implement State standards
 - Needs Assessment and Plan of Care protocols
 - Medical Necessity protocols for residential/day services
 - Provider Agreements
 - Provider enrollment processes (1915(c))
 - MCO Credentialing processes
 - QA monitoring/tools
 - HCBS Provider Manual
 - Rate methodologies

Discovery and Remediation: Systemic Assessment (3)

Validation of systemic remediation processes

- Review/approval of all 1915(c) policies, protocols, etc.
- Desk review of amended MCO policies, processes, etc.
- MCO onsite readiness assessments, including credentialing and re-credentialing processes
- Review of amended Provider Agreements by Tennessee Department of Commerce and Insurance
- Revise internal audit processes for ongoing compliance monitoring

HCBS Implementation

Site-Specific Assessments

Discovery: Provider Self-Assessment Results

Total Number of Provider Settings Assessed: 1245

- Total Residential Provider Settings: 704
 - Residential Habilitation and Medical Residential: 170
 - Family Model Residential: 290
 - Supported Living: 144
 - Assisted Care Living Facility: 99
 - Adult Care Home: 1
- Total Non-Residential Settings: 541
 - Community-Based Day: 167
 - Facility-Based Day: 86
 - Supported Employment: 99
 - In-Home Day: 147
 - Adult Day Care: 42

Discovery: Provider Self-Assessment Results

Reported Compliance among Providers:

- Provider settings deemed 100% compliant with the HCBS Settings Rule - **14%**
- Provider settings who have identified at least one area that is currently out of compliance with the HCBS Settings Rule - **84%**
- Provider settings deemed non-compliant with HCBS Settings Rule and opting not to complete a provider level transition plan - **2%** (27 settings)

Whew...now what?

Site Specific Remediation:
What do we do about it?

Remediation: Transition Plans

1048 Transition Plans Received

Areas identified as non-compliant:

- Physical Location: 367 or 35%
- Community Integration: 694 or 66%
- Residential Rights (Residential Only): 408 or 39%
- Living Arrangement (Residential Only): 552 or 53%
- Policy Enforcement Strategy: 936 or 89%

The elephant in the room:

Not everyone wants to work or be integrated!



- What to do when choice meets the rule

When individual choice meets HCBS Rule:

- A person can decide if they want to work.
- A person can choose the degree of community integration/participation they want.
 - It must be *meaningful* choice.
 - It's easy to choose NOT to do something that's new and different and that you don't really understand.
 - We have to help people understand; provide opportunities.
- A person can choose the setting they want to live in... even institutional. But they can't choose a non-compliant setting and receive Medicaid HCBS funding.

When individual choice meets HCBS Rule (continued):

- A person can choose where they spend their day, including sheltered employment. Medicaid only pays for *pre-vocational* services in a sheltered setting.
- A person can choose to live in a home in close proximity to another home where people with disabilities live.
 - The setting will have to comport in order to receive HCBS funds...which means offering meaningful support and opportunities for inclusion.
 - Must demonstrate that people are working and participating in community to the extent *they want* AND provider is doing all they can to support that.
 - People who aren't are making those decisions in an informed and meaningful way and documented in the plan of care
 - And we NEVER give up...we keep trying. (Not one and done.)

Are we there yet?

More discovery;
More remediation:
Heightened Scrutiny

Settings “presumed” to have institutional qualities

- **Settings that have the qualities of an institution (applies to residential and non-residential services):**
 - Located in a public or privately operated building that provides inpatient institutional treatment
 - Located on the grounds of, or immediately adjacent to a public institution
 - Has the effect of isolating members who receive Medicaid funded HCBS from the broader community of people who do not receive Medicaid funded HCBS

Settings that may be “presumed” institutional

Services/settings selected by State for potential heightened scrutiny review (based on CMS rule/guidance):

- Adult Day Care (inside inpatient facility/settings that isolate)
- Assisted Care Living Facilities (inside inpatient facility/settings that isolate)
- Critical Adult Care Homes (settings that isolate)
- Facility Based Day (settings that isolate)
- Residential Habilitation settings with more than 4 persons (settings that isolate)
- Supported Living and Residential Habilitation settings in close proximity (settings that isolate)

Heightened Scrutiny

Heightened scrutiny review will consist of:

- A review of data pertaining to services utilized by all persons receiving services in the specified setting
- An on-site visit and assessment of physical location and practices
- A review of person-centered support plans and Individual Experience Assessments for individuals receiving services in the setting
- Interviews with service recipients
- A secondary review of policies and other applicable service related documents
- Additional focused review of the agency's proposed transition plan
 - Including how each of the above is expected to be impacted as the plan is implemented
 - Transition plans may require revisions

Heightened Scrutiny (2)

Heightened scrutiny review will consist of:

- State determination regarding:
 - Whether the setting in fact is “presumed to have the qualities of an institution” as defined in rule/guidance
 - Whether the presumption is overcome based on evidence
- Collection of evidence to submit to CMS to demonstrate compliance (**ONLY if the state in fact feels the setting is “presumed not HCBS” AND meets the HCBS requirements**)

Again, we engaged advocates:

- *Part of the Heightened Scrutiny review and determination process*

Heightened Scrutiny (3)

After information is collected and reviewed:

- TennCare will compile and share (in a digestible format) with a Review Committee comprised of representatives from advocacy groups that serve individuals receiving HCBS
 - AARP
 - The Arc of Tennessee
 - Council on Developmental Disabilities
 - Disability Rights Tennessee (Protection & Advocacy)
 - Statewide Independent Living Center
 - Tennessee Disability Coalition
- The Advocacy Review Committee will review the evidence and help advise if each setting meets the requirements of the settings rule (or will once the transition plan is implemented).
- Settings that will be submitted to CMS will be posted (or notification will be provided directly for individual residences) for public comment

Heightened Scrutiny (4)

After information is collected and reviewed:

- All settings presumed to have the qualities of an institution (as defined in rule/guidance) will be submitted to CMS for final review **IF** the State determines the presumption is overcome
- Evidence will be packaged in a digestible format including analysis of all evidence compiled during the HS review process, with complete documentation available for more in-depth review

And now we're done? Not so fast...

Ongoing review and monitoring:

- Embed in person-centered planning processes
- Embed Individual Experience Assessment in annual person-centered plan review
- Embed in 1915(c) provider enrollment process
- Embed in MCO credentialing process (initial and ongoing)
- Embed in Quality Assurance review processes
- Leverage external survey processes for validation (e.g., National Core Indicators and NCI-AD)

Working together: Tennessee's materials

- Available at <http://tn.gov/tenncare/topic/transition-plan-documents-for-new-federal-home-and-community-based-services>
 - Updates
 - All posted versions of the Statewide Transition Plan with tracked changes to ease stakeholder review
 - Provider self-assessment tools and resources
 - Individual Experience Assessment
 - Heightened Scrutiny tools and resources
 - Training and education materials

Working together: An Advocate's Perspective

- **Take initiative to get involved**
 - Reach out, build relationship with state team
- **Participate in training/information sessions**
 - Request them if not being offered
 - Offer to help schedule/arrange
 - Offer to help sponsor or facilitate
- **Be a part of engaging individuals and families**
 - Help disseminate state's information/notifications
 - Develop your own information/articles
 - Encourage individual/family participation
 - Help address individual questions and concerns, dispel myths

Working together: An Advocate's Perspective (continued)

- **Provide input into the State's Transition Plan**
 - Be as *specific* as possible
 - Is my concern and my recommendation clear?
 - Proposing new language is helpful.
 - Is it practical and actionable?
- **Make recommendations regarding the state's process and tools**
 - Research other states' process/materials
 - Provide meaningful feedback – solutions, not complaints
- **Participate in actual assessments whenever possible—systemic/site-specific** (be an extension of limited state resources, if you can)
- **Participate in heightened scrutiny reviews**
- **Help keep the focus where it belongs—on the people receiving services and the opportunity to improve the quality of their lives!!!**

Interactive Q&A

Questions?