

ALTA CALIFORNIA REGIONAL CENTER CMS Final Rule Training



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Community Services and Supports Department
Developed 5/2017; Revised 3/26/2020

The History



Katie Beckett



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Definition: HCBS

“Home and Community Based Services (HCBS)”:

Services provided in a person’s home or community rather than institutions or isolated settings.



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Example:

Settings that are NOT HCBS include:

- Institutions
- Nursing Homes
- Institutions for Mental Disease (IMDs)
- Intermediate Care Facilities for Individuals with Developmental Disabilities (ICF-IDD)
- Hospitals



Definition: CMS

“Centers for Medicare & Medicaid Services (CMS)”: The federal agency that oversees distribution of funds through Medicaid waiver program.



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Definition: Final Rule

“Final Rule”: Change to federal regulation regarding Medicaid funds that pay for Home and Community Based Services (HCBS). The rule applies to settings where services are provided, both residential and non-residential.



Mandate:

In order for California to receive federal funds available, services must align with the federal regulation.

CMS has extended the transition period for states to demonstrate compliance with the HCBS criteria until March 17, 2022. By that date, all providers will implement any necessary updates to services.



What does this mean for us?

There is a much needed shift in the system, from institutional care model to community integration and inclusion, through person-centered planning with individualized services and supports.





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Questions???



Discussion Time:

- What does “community” mean you?
- To the clients you serve?



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Requirements - Settings:

Services and supports must be provided in integrated, non-isolating settings (defined based on individual experience and outcomes, rather than on a setting's location, geography, or physical characteristics).



Definition: Community Based Setting



“Community Based Setting”:

A setting integrated with the surrounding community

- Provides people in the setting the same degree of access to the community as anyone else in the community
- Includes opportunities to work in competitive integrated employment, engage in community life, control personal resources, and receive services in the community

Definition:

Institutional Setting



- Segregates people with disabilities from the larger community and from people without disabilities
- Limits access to the community to only certain times or only as part of a group
- Limits choice of community activities and places to visit

What are “Settings that Isolate”?

- Individuals have limited, if any, opportunities for interaction in and with the broader community
- The setting restricts choice to receive services or engage in activities outside of the setting
- The setting is physically located separate and apart from the broader community, and does not facilitate opportunity to access the broader community



Requirements - Person Centered Planning:



- The plan should show that where the person lives and spends time is chosen by the person, is integrated, and supports full access to the greater community
- Specific options are mentioned in the person centered plan, and should relate to individual desired outcomes
- Decisions are based on support needs, preferences, and for residential settings, how much money the individual has to pay for rent and food

The Final Rule has five main components:



1. The setting is integrated in and helps individuals to access the **community**. Regional Center clients must have the SAME access to the community as anyone else.

The Final Rule has five main components:

2. The setting is selected by the individual from among setting options, as documented in the **Person Centered Plan**.



The Final Rule has five main components:

3. Protects an individual's **rights** (to privacy, dignity, respect, and freedom from coercion and restraint).



The Final Rule has five main components:

4. Promotes **independence** in making life choices including daily activities, physical environment, and with whom to interact.



The Final Rule has five main components:

5. Supports individual **choice** regarding services and who provides them.



There are additional components for residential settings:



6. A legally enforceable agreement between the provider and client that allows the client to own, rent, or occupy the residence and provides protection against eviction.

There are additional components for residential settings:

7. Privacy in units including lockable doors, choice of roommates and freedom to furnish and decorate units.



There are additional components for residential settings:

8. Options for individuals to control their own schedules including access to food at any time.



There are additional
components
for residential settings:

9. Individual's freedom to have
visitors at any time.



“What About Johnny?”

The federal rules do allow for some flexibility when:

1. There is an assessed need
2. The need is described and addressed in the Person Centered Plan
3. The need is reviewed regularly





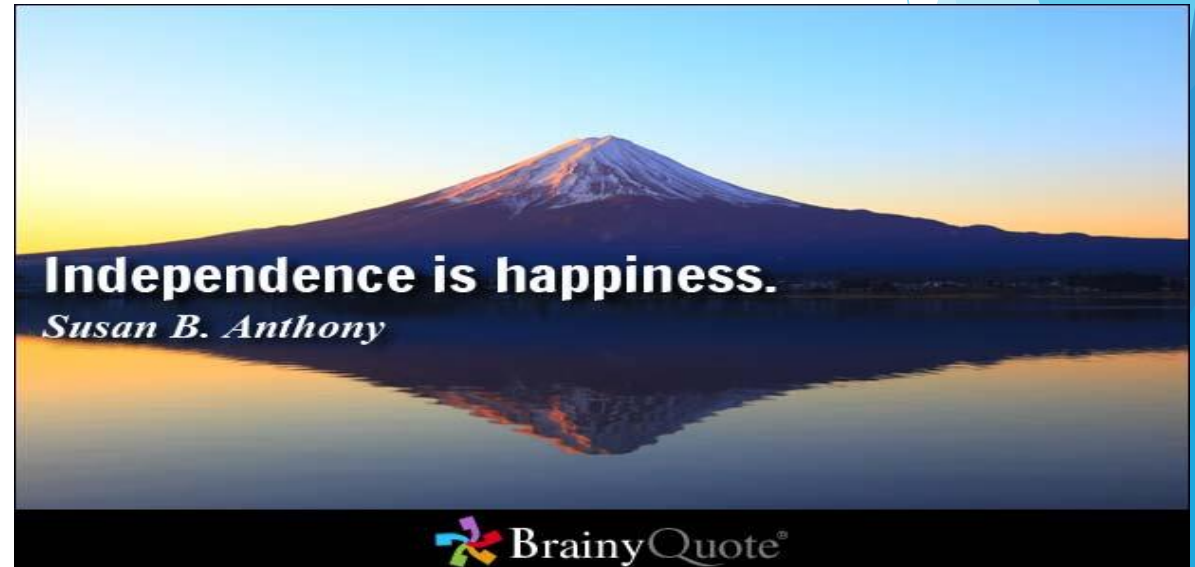
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Discussion Time:

- Community
- Person Centered Planning
- Rights
- Independence
- Choices



What does this mean for us?

There are thousands of providers in the state of California that fall under this rule. Depending on the type of service provided, many existing ACRC vendors will need to make updates to services and/or procedures. New vendors will be designed to meet the requirements from day one.



Why Change the Rules?

People with disabilities have the right to live a full life!



- Ensure that clients have full access to benefits of community living
- Have control over personal resources
- Improve quality of and outcomes of services
- Add protections for clients
- Ensure that services are received in the most natural setting that meets the clients' expressed needs
- Right thing to do (not just care, but personal growth)
- Power/risk transferred to planning team
- Services go to people who really need them
- Staff find services meaningful

Changes could include:

- Providing training to assure that planning teams understand the philosophy and expectations of Person Centered Planning
- Increasing documentation of client choices and needs in IPP and ISP
- Less time at a provider-controlled site
- Develop a more outcome-oriented focus



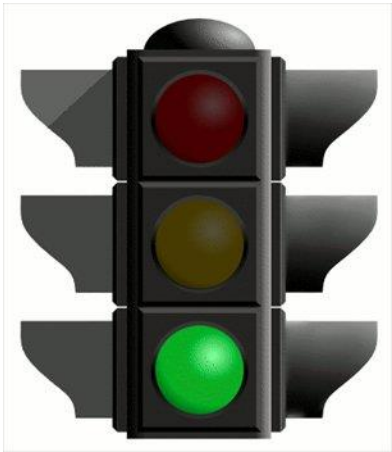
Offering clients additional choices:

- Receiving services in a more integrated setting
- More opportunities to engage in community life and build relationships
- Option for a private unit in a residential setting
- Option for living in and receiving services in one's own apartment or home
- Opportunity to work and receive employment supports in a typical job in the community



Existing vendors do NOT need to wait to begin making any changes.

Start now!





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Please enjoy a ten
minute break.

See you soon!



State Transition Plan (STP)



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All states must develop a State Transition Plan (STP) to show how settings will be able to meet the new requirements.

California's STP has received initial approval.

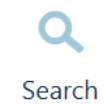
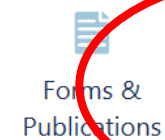
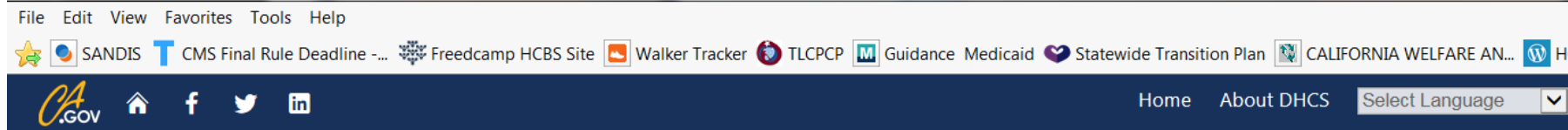
You can access the proposed STP at this website:

<http://www.dhcs.ca.gov/>

In Search field in right hand corner, type in "STP".



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stp

About 151 results (0.12 seconds)

[Statewide Transition Plan](#)

<https://www.dhcs.ca.gov/.../lrc/.../HCBSStatewideTransitionPlan.aspx>



Mar 2, 2018 ... The California Department of Health Care Services (DHCS) submitted the revised Statewide Transition Plan (**STP**) to the Centers for Medicare ...

[Skilled Nursing Facility \(SNF\) / Special Treatment Program \(STP\)](#)

https://www.dhcs.ca.gov/.../Skilled_Nursing_Facility_Special_Treatment_Program.pdf

File Format: PDF/Adobe Acrobat

CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES. Skilled Nursing Facility (SNF) / Special Treatment Program (**STP**). #. FACILITY. ADDRESS.

[Mental Health Treatment Programs](#)

<https://www.dhcs.ca.gov/.../MentalHealthTreatmentProgramscertifiedbyDHCSare.aspx>



Mar 18, 2014 ... In order for an SNF to be certified as an **STP**, it must meet the licensing and ... **STP** services are those therapeutic services provided to mentally ...

How will settings be assessed?



The DDS assessment is currently in process:

- Provider Self-Assessment-
- DUE JUNE 30, 2020!!!
- Client / stakeholder input
- On-site assessment (DDS & RC)



DDS Self Assessment Process



- Self-Assessments are currently only required of provider-controlled congregate settings (care homes, day/employment programs, socialization training programs)
- Providers must include stakeholder input regarding their experiences
- Self-Assessment may be accessed online via e-billing or altaregional.org website
- DUE JUNE 30, 2020!!!

Assessment Outcomes:

The results of the assessment will indicate if providers are:

- Clearly compliant
- May need to make changes (presumed not compliant, or not clearly compliant)
- Will clearly need to make changes (clearly not compliant)



Self Determination Program Provider Assessment:



Providers (vendored or not) who meet the following criteria must be assessed as compliant with the CMS Final Rule prior to funding through the Self Determination Program:

- Service designed for people with disabilities
- Service provided on a provider-controlled site
- Individuals congregated for the purpose of providing services

Example:

Settings that are presumed NOT to be compliant:

- Settings in a publicly or privately-owned facility providing inpatient treatment
- Settings on grounds of or next to public institution
- Settings with effect of isolating individuals from broader community of individuals not receiving Medicaid services



If a setting is not clearly compliant:



- Changes can be made to setting (remediation)
- The state provides justification to CMS through the Heightened Scrutiny process
- Clients may be moved to a different setting

Definition:

Heightened Scrutiny

If a setting is presumed not to be compliant, the state may submit evidence demonstrating why the setting:

- does not have the qualities of an institution
- does meet all the qualities for being home and community-based



EVIDENCE

Hurdles to Overcome:

- Transportation options
- Ratios
- Rates
- Location
- Expectations
(Community,
participants, families)



Life's problems
wouldn't be called
"hurdles" if there
wasn't a way to get
over them.

~Author Unknown

We are still waiting for more information:

- Assessment / review process
- State Transition Plan final approval
- DDS in talks with Community Care Licensing

A black rectangular sign with a white crown at the top. Below the crown, the words "KEEP", "CALM", "AND", "WAIT", and "PATIENTLY" are written in a bold, white, sans-serif font, stacked vertically.

**KEEP
CALM
AND
WAIT
PATIENTLY**



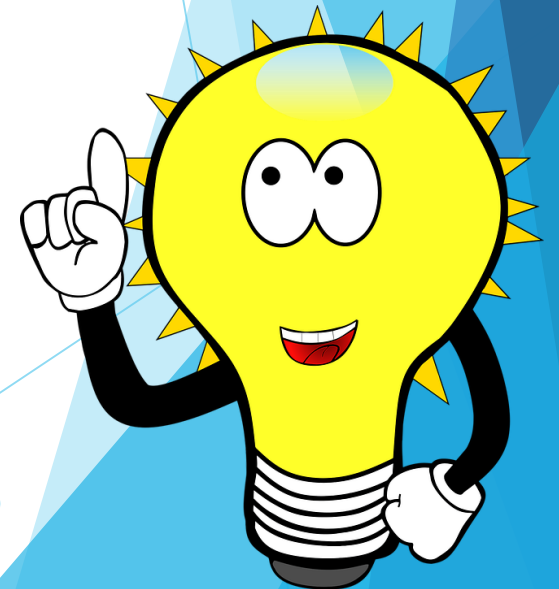
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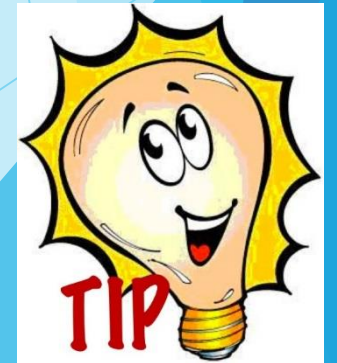
Discussion Time:

- What tips are helpful for your organization (see next slides)?
- What is one main takeaway that you can begin implementing immediately?



Tips:

- Person Centered Thinking training
- Ask “What would it take?” to reach goal or meet a need
- Ask “What would you and I do?”
- Don’t hold back - connect with others
 - Ask for help
 - Share ideas & resources
- Start small, start now!
 - Start with one person at a time, and keep going until you’re done
- Use setting for clients to come and go, not to stay; or consider 100% community based day services



More Tips:

- Pursue accessibility
- Give yourself credit by documenting what you are already doing
- Identify funding needs
- Support clients to develop and maintain relationships (family, friends, community)
- Broaden idea of “community”: more than a place to go
- The best places to learn how to live and work in the community are in the community



Now what?

- Complete Provider Self-Assessment Survey
- Person Centered Thinking / Planning
- Think about what actions you can take
 - Now
 - Future
- Documentation
- Get involved - forums and trainings



Success Stories:

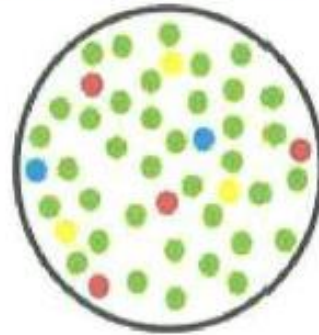
- HCBS Compliance Funding
- Person Centered Thinking trainings
- Increased community involvement
- Greater client independence
- Dinners with friends, neighbors
- Clients planning and cooking meals
- Bedroom locks



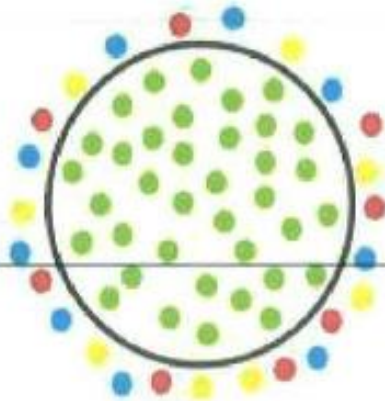
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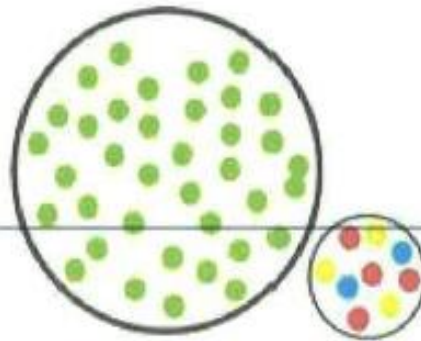
Inclusion, Exclusion, Segregation, and Integration



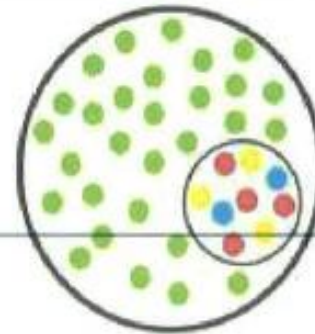
Inclusion



Exclusion



Segregation



Integration



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Questions???



Any further questions:

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References:

- Barbara Brent CECY PowerPoint Presentation 8/27/2015
- HCBsadvocacy.org FAQ Sheet
- HCBsadvocacy.org Toolkit: The Medicaid Home and Community Based Services Settings Rules: What You Should Know!
- HCBsadvocacy.org Toolkit: Home and Community Based Services Rules Q&A: Settings Presumed to be Institutional & the Heightened Scrutiny Process
- <http://www.dds.ca.gov/HCBS/docs/faqRules.pdf>
- FAQ Sheet (HCBsadvocacy.org)



References (Continued):



- CMS HCBS Final Rule and Implications for California PDF
- Continuity of Services during implementation of the HCBS Settings Rule - DD Council
- Serena Lowe 10/12/2016 PowerPoint Administration for Community Living
- The Home and Community-Based Settings Rule: What does it mean for you?
- HCBS Settings Rule 3-Part Toolkit (HCBSadvocacy.org)
- <http://www.acl.gov/Programs/CPE/OPAD/docs/What-the-HCB-rule-means-for-you.pdf>

Resources (Handouts):

- 75 Actions that Build Community
- Person Centered Planning Summary
- DDS One Sheet
- Draft Provider Self-Surveys (Residential and Non-Residential)
- Exploratory Questions Steps to Compliance Flow Chart
- Guidelines for Non-Residential Home and Community-Based Service (HCBS) Settings Exploratory Questions

