

The Division of Health Care Financing and Policy

**SPAC Update Report
September 23, 2014**

Program Updates

- ▶ Development of a Nursing Facility Program to Support “Behaviorally Complex Individuals”
- ▶ CMS Home and Community Base Services Final Rule
 - Home and Community Based Settings
 - Person Centered Planning

Behaviorally Complex Care Program

- ▶ Established with the intention of providing care in Nevada
- ▶ Supports facilities to care for individuals with medically-based behavior disorders resulting in the Medicaid recipient posing a danger to self and/or others
- ▶ A program supported by a tiered rate to accommodate the care needs of a range of behaviors

Out-of- State Nursing Facilities

- ▶ Currently 3,186 recipients reside in nursing facilities
- ▶ 72 recipients reside out-of-state
 - 13 children, all at the same facility– 2 are in process of returning
 - 30 out-of-state recipients are from northern Nevada
 - 29 out-of-state recipients are from southern Nevada
- ▶ Recipients reside out-of-state due to:
 - Physical aggression
 - Sexual inappropriateness
 - Mental Health Issues/Dual Diagnosis
 - Alcohol Dementia
 - Traumatic/Acquired Brain Injuries

History

- ▶ Various stakeholders have worked together to define the needs of this population and how they can be met by in-state Nevada Nursing Facilities and Nevada Medicaid.
- ▶ New core group established in the last year to clarify the process and create a rate for the BCI that will be equitable and fiscally responsible.
- ▶ MSM chapter is being finalized for public hearing

What's Considered "Behaviorally Complex"?

- ▶ Injures Self
 - head banging, self biting, hitting oneself, and throwing oneself to floor with or without injury
- ▶ Physical Aggression
 - Assaultive to other residents, staff and/or property with or without injury to other residents or staff
- ▶ Verbal Aggression
 - Disruptive sounds, noises, screaming that disturbs roommate, staff or other residents
- ▶ Regressive Behaviors
 - Sexual behaviors, disrobing, throwing/smearing food, feces, stealing, hoarding, going through other residents/staff belongings, elopement attempts
- ▶ Resists Care
- ▶ Faces out of state placement
- ▶ Brain Injury
- ▶ Requires specialized behavior plans or environments to improve or manage Behavior

The Intent of the Rule

- ▶ To ensure that individuals receiving long term services and supports through home and community based service programs under the 1915 ©, 1915 (i) and 1915 (k) Medicaid authorities have full access to benefits of community living and the opportunity to receive services in the most integrated settings appropriate
- ▶ To enhance the quality of HCBS and provide protections to participants

Settings PRESUMED NOT To Be Home and Community Based.....

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

HCB Settings Requirements

- ▶ 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

HCB Setting Requirements

- ▶ Selected by the individual from among setting options including:
 - non-disability specific settings
 - option for a private unit in a residential setting
- ▶ Setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences and for residential settings, resources available for room and board

Provider-Owned or Controlled Residential Settings

- ▶ Specific requirements where services and living arrangements are combined or “bundled” by one provider
- ▶ These requirements are:
 - 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

Provider-Owned or Controlled Residential Settings

- ▶ If tenant laws do not apply, providers must:
 - Ensure the lease, residence agreement or other written agreement in place provides protections against eviction
 - Provide appeals comparable to those under the jurisdiction's landlord tenant law

Provider-Owned or Controlled Residential Settings

- ▶ Privacy in sleeping or living unit
- ▶ Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed
- ▶ Choice of roommates
- ▶ Freedom to furnish and decorate their sleeping or living units within the lease or other agreement

Provider-Owned or Controlled Residential Settings

- ▶ Freedom and support to control:
 - schedules
 - activities
 - access to food
 - visitors at any time

Provider-Owned or Controlled Residential Settings

- ▶ Specific criteria must be met when there are “modifications” to settings requirements for an individual
- ▶ i.e. restrictions such as limiting access to food or concerns about furnishings

Person Centered Planning

- ▶ Process is driven by the individual
- ▶ Team includes people chosen by the individual
- ▶ Provides necessary information to ensure the individual directs the process to the maximum extent possible
- ▶ Is timely and occurs at times/locations of convenience to the individual
- ▶ Plain language that is understandable

Person Centered Planning

- ▶ Reflection of what is important to the individual to ensure delivery of services in a manner reflecting personal preference and ensuring health and welfare
- ▶ Identifies the strengths, preferences, needs, and desired outcomes of the individual
- ▶ May include whether and what services are self directed

Person Centered Planning

- ▶ Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others
- ▶ Includes risk factors and plans to minimize them
- ▶ Is signed by all individuals and providers responsible for its implementation and a copy of the plan must be provided to the individual and his/her representative

Full Access to the Community

How do people engage in community life?

▶ Planned Activities:

- Work
- Volunteer work
- Learning experiences and activities (book clubs, art classes, etc.)
- Recreation – swimming, dancing, etc.
- Social Life – getting together with family, friends, people visit them in their home
- Peer Support Groups

Full Access continued....

- ▶ Personal Care – hairstyling, having nails done
- ▶ Maintaining home – actively engaged in this
- ▶ Caring for others, like family and friends
- ▶ Spirituality: worship, meditation, yoga classes
- ▶ Hobbies: gardening, painting, photography
- ▶ Going on Vacation

Potential Pitfalls & Unknowns

- ▶ Non-residential setting regulations not finalized
 - Adult Day Health Care
 - Jobs & Day Training
- ▶ Licensing regulations
 - Age in Place Medical Care rules
 - Fire Marshall
 - Bureau of Health Care Quality and Compliance- Medical Care rules
- ▶ Larger facilities
 - May be too institutional
- ▶ Out of State Facilities
 - Not Nevada community based

Resources

- ▶ CMS site for any and all information:

<http://www.medicaid.gov/mediaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

- ▶ DHCFP site: <https://dhcftp.nv.gov/hcbs.htm>
- ▶ Jennifer Frischmann
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