

Steve Sisolak
Governor



Richard Whitley
Director

State of Nevada
**Department of Health and
Human Services**

Home and Community Based (HCBS) Setting Rule

Division of Health Care Financing and Policy

Kirsten Coulombe



5/27/2020

Helping people. It's who we are and what we do.

Agenda

1. Background of the HCBS Settings Rule
2. Setting Requirements for HCBS
3. Heightened Scrutiny
4. Person-Centered Planning Process
5. Current Status / State Transition Plan
6. Resources / Web Links



HCBS Final Rule

- The final Home and Community-Based Services (HCBS) regulations (known as the “Final Rule”) were published by Centers for Medicare and Medicaid Services (CMS) in January 2014 and effective March 17, 2014.
- Applicable to 1915(c) HCBS Waivers, 1915(i) HCBS State Plan Option, 1915(k) Community First Choice and 1115 Demonstration Waivers.
- Designed to enhance the quality of HCBS, provide additional protections, and ensure full access to the benefits of community living.
- Establishes requirements for the qualities of settings where individuals live or receive Medicaid reimbursable HCBS.



HCBS Final Rule- Continued

- The regulation served as a catalyst for widespread stakeholder engagement on ways to improve how individuals experience daily life.
- The intent is for individuals receiving Medicaid funded HCBS to have the opportunity to promote individual choice and greater community integration
- In May 2017, CMS extended the transition period for existing settings to become in compliance with the Final Rule as of March 17, 2022.



Residential and Non-residential Setting qualities

Any **residential or non-residential** setting where individuals live and/or receive HCBS must have the following five qualities:

- 1) Is integrated in and supports full access of individuals to the greater community
- 2) Is selected by the individual from among setting options including non-disability specific settings and options for a private unit in a residential setting
- 3) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint
- 4) Optimizes individual initiative, autonomy, and independence in making life choices, including, but not limited to, daily activities, physical environment, and with whom to interact
- 5) Facilitates individual choice regarding services and supports, and who provides them





Settings that are not HCBS

EXCLUDED SETTINGS:

- Nursing Facility
- Institution for Mental Disease
- Intermediate Care Facility for Individuals with Intellectual Disabilities
- Hospital
- Other locations that have qualities of an institutional setting, as determined by the Secretary



Settings presumed not to be HCBS

- The regulations identify other settings that are presumed to have institutional qualities and do not meet the requirements for Medicaid home and community-based settings:
 - Settings in a publicly or privately operated facility that provides inpatient institutional treatment.
 - Settings in a building on the grounds of, or adjacent to, a public institution.
 - Settings with the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

Heightened Scrutiny

- Settings that are not in compliance with the Final Rule fall into 3 categories:
 1. Settings located in building that is also operated as a facility that provide inpatient institutional treatment
 2. Settings located in a building located on the grounds of, or immediately adjacent to, a public institution
 3. Any other settings that have the effect of isolating individual's receiving Medicaid HCBS

Newly Constructed Settings

- In August 2019, CMS issued new guidance regarding HCBS settings under development or new construction
 - New construction no longer needs to wait until Medicaid beneficiaries receive service to be reviewed and determined in compliance with settings criteria as long as the State can determine that adhere through private pay individuals experiences.

Current Status

- Initial approval of state Transition Plan received from CMS in August 2019. Can find copy here: <http://dhcfp.nv.gov/Home/WhatsNew/HCBS/>
- Working with CMS on Final Approval
- Onsite visit by CMS in September 2019:
 - Washoe Daybreak in Reno/Sparks
 - Moving to grounds of public institution setting
 - Highland Manor in Fallon
 - In a privately operated facility adjacent to institutional setting
 - Opportunity Village in Las Vegas
 - Possible effect of isolating individuals from the broader community



Questions?





Contact Information

Rossana Dagdagan

Social Services Program Specialist II

rdagdagan@dhcfp.nv.gov

775-684-3741

Susie Angel

Social Services Program Specialist II

sangel@dhcfp.nv.gov

775684-3608

hcbs@dhcf.nv.gov

