



Improving lives THROUGH
supports and services
THAT FOSTER self-determination.

Home and Community Based Services (HCBS)

Final Federal Rule

HCBS Rule CMS 2249-F / CMS 2296-F

Centers for Medicare and Medicaid Services (CMS)

-  A federal government agency under Health & Human Services (HHS) that assists in providing health coverage through the Medicare, Medicaid and Children's Health Insurance Program (CHIP).

1915 (c) Home and Community-Based Waiver

-  Allows states to deliver long-term care services in home and community settings rather than institutional settings like nursing homes and ICF/ID.

HCBS

-  Services funded through Medicaid HCBS Waiver programs and ensure that individuals receive services in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive Home and Community Based Services.

Glossary

Person-Centered Service Plan

-  Document developed by the individual and their identified planning team that reflects the services and supports that are important for the individual to meet their assessed functional needs, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

Conflict-Free

-  Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan, except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area also provides HCBS.

Glossary

Setting

-  The location where the Home and Community Based Service is being provided.

Home and Community Based Services Final Rule



- ❑ Final Rule Published January 2014 – Effective March 17, 2014
 - ❑ Person Centered Service Plan
 - ❑ Conflict Free
 - ❑ Settings

- ❑ Affects all DDD Waivers

- ❑ States have until March 17, 2019 to achieve compliance with requirements for home and community-based settings in transition plans for existing programs.

Final HCBS Rule Key Provisions - Self Advocates



Individuals have the right to receive services in the community to the same degree as those not receiving HCB waiver services:

- Individuals must be allowed to select the services they receive, where they live among available options, and the providers of those services.
- Individuals have the freedom to control their own schedules, personal resources, and other aspects of their living arrangement.
- Individuals must be treated with dignity and respect and be free from coercion or restraint.
- I have a right to work. You should expect me to work.

Final HCBS Rule

Setting Requirements



HCBS Rule requires that an HCB Waiver Service setting:

- Is fully 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
- Is selected by the individual from more than one setting option, including non-disability specific settings and an option for a private room in a residential setting

Provider Owned or Controlled Residential Settings Additional Requirements

❑ Individuals have:

- ❑ privacy in their homes
- ❑ choice of roommates
- ❑ freedom to furnish and decorate their sleeping or living areas within the lease or other agreement
- ❑ freedom and support to control their schedules and activities and have access to food any time
- ❑ visitors at any time



- ❑ Homes have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed.
- ❑ Setting is physically accessible to the individual.

Provider Owned or Controlled Residential Settings Additional Requirements

- 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.
- If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

Provider Owned or Controlled Residential Settings Additional Requirements

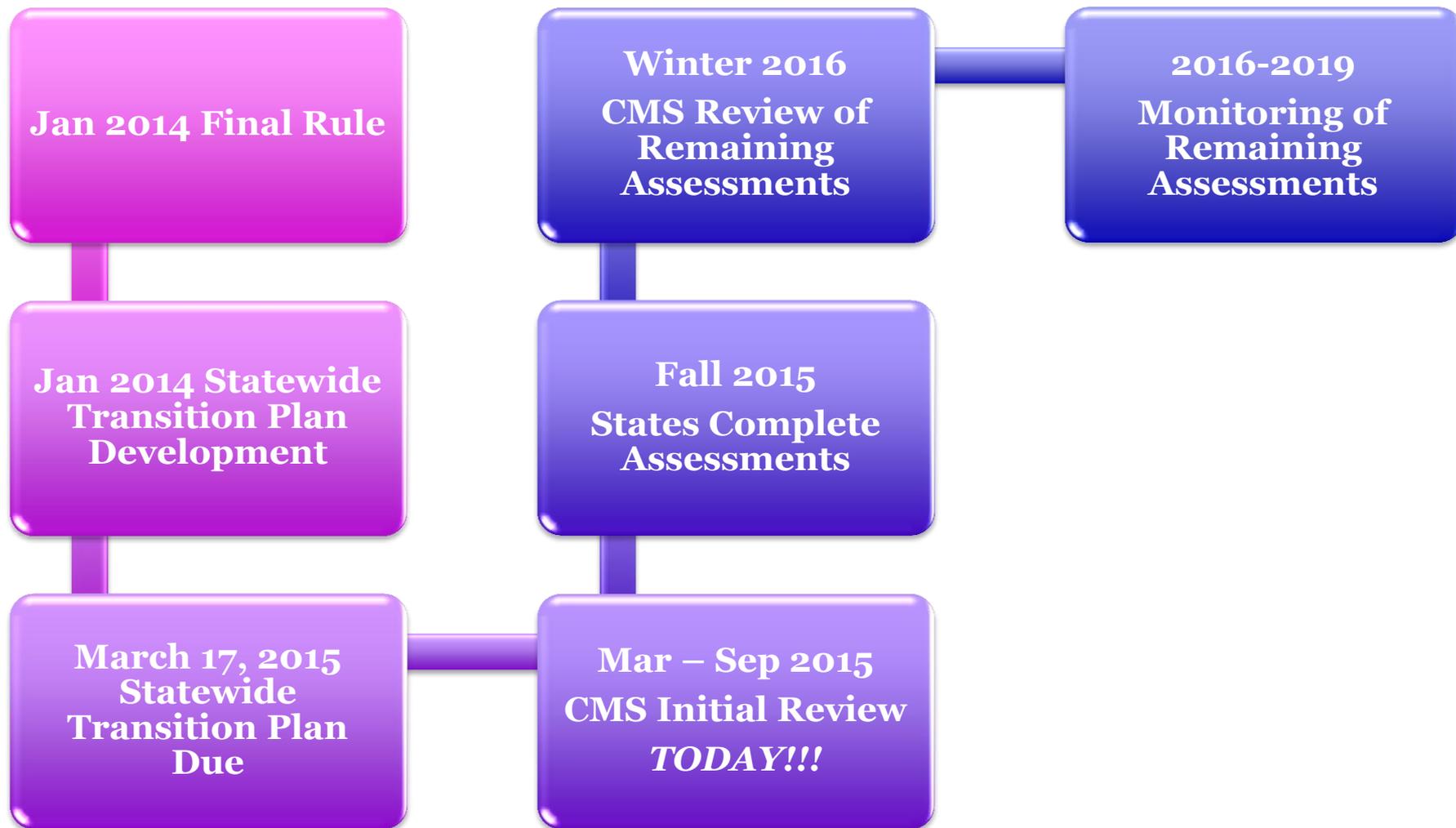


- Documentation in the person-centered service plan of modifications of the additional requirements includes:
 - Specific individualized assessed need
 - Prior interventions and supports including less intrusive methods
 - Description of condition proportionate to assessed need
 - Ongoing data measuring effectiveness of modification
 - Established time limits for periodic review of modifications
 - Individual's informed consent
 - Assurance that interventions and supports will not cause harm

CMS defines a Statewide Transition Plan as the vehicle through which states determine their compliance with the regulation requirements for HCB settings:

- It describes to CMS how the state will comply with the new regulations.
- States must be in full compliance with the federal requirements by the time frame approved in the Statewide Transition Plan but no later than March 17, 2019.

CMS Timeline



March 2019



Transition Plan

Assessment Timelines



Action Item	End Date
Initial Settings Provider Self-Assessment Survey	09/10/14
Initial Settings Assessment Tool Development	12/15/14
Participant Survey Development	12/31/14
Settings Analysis	02/02/15
GIS Mapping	03/30/15
Ongoing On-Site Assessment	04/02/17 and Annually
Provider Enrollment Process	03/02/15
Exploratory Questions Distribution	01/01/15
Assessment Results Report	06/01/16 and Annually

State Level Remediation Actions such as:

- New requirements promulgated in statute, licensing standards, and/or provider qualifications (RSMo, CSR, Provider Enrollment, Provider Contracts)
- Revised service definitions and standards (Waiver Manual, Service Catalog)
- Revised training requirements (Support Coordinator Manual, MELS)
- Plans to relocate individuals to settings that are compliant with the regulation

Statewide Transition Plans

- CMS is in the process of sending letters to states requesting additional information based on the content of their STPs.



- Letters are customized to articulate the next steps for each state and the timeframes by which the additional information is to be submitted.
- As states complete their systemic and setting specific assessments, states should ensure continued public input on assessment results and implications.

Statewide Transition Plan

What CMS is Seeing

- ❑ Lack of information regarding meaningful public input
- ❑ States are very early in the process of conducting assessments of their current systems
 - ❑ Many states have not completed initial systemic assessments.
 - ❑ Some states have indicated that specific information on the scope of providers needing to revise operations, and the scope of information to be submitted for heightened scrutiny review, won't be known until very late into the transition period.
 - ❑ Many states have not identified the specific policies, rules, licensure or certification process to be reviewed, the settings they apply to and/or the qualities of home and community-based settings that they address.
 - ❑ Many states have not completely identified the specific settings to be included in the assessment, the number of such settings, or the number of individuals served.



Statewide Transition Plan

What CMS asked Missouri



CMS highlighted GIS mapping system for Heightened Scrutiny

Summary of CMS Letter

- More detailed information on process to ensure compliance with the rule by state and provider.
- More timelines and detailed milestones laid out—to better explain how we are complying with the rule.
- If timelines are not met, what steps will states take to ensure compliance with the rule.

CMS Issues and Concerns

- Without a complete settings assessment, states cannot:
 - Identify which settings are/are not in compliance or could transition to compliance
 - Identify settings *Presumed Institutional* in nature
 - Submit evidence for *Heightened Scrutiny*
 - Provide specific remedial actions
 - Provide more than general milestones/timeframes
- Concerns with the amount of time some states are projecting to complete the assessment phase and leaving adequate time for the actual transformation
- States need to develop plans for ongoing monitoring which should ensure settings currently in compliance remain in compliance during and after the transition period
- North Dakota Letter
 - Requested review of a heightened scrutiny setting including both residential and non residential settings located on the grounds of a habilitation center.
 - Ten individuals living in 3 homes and 2 apartment buildings and a facility based day program serving 12 individuals currently living in the community located on the 93 bed habilitation center campus.

North Dakota

CMS Response



- Heightened Scrutiny—Residential Setting
 - On-site visit in May with observation and interviews of individuals.
 - Residential units were determined to meet the requirements of an HCBS residential setting, following some remediation:
 - Leases need to exist between guardians/participants and the home owner/provider.
 - Locks should be available on bedroom doors.
 - Modification of plans to include limits was well documented, however must follow process in the HCBS rule.
 - Plans did not adequately reflect that individuals were given other options for other places to live.

- Heightened Scrutiny—Facility Based Day Program
 - Facility-Based Day Program does not meet the characteristics of a home and community-based setting because a majority of individuals receive most of their services at the facility-based program and are not integrated into the greater community.
 - State remediation during transition time includes increased opportunities to participate in community-based work rather than facility-based work.
 - State can continue to operate program during transition period as decisions are made.

- Missouri Day Program numbers
 - 200 provider operated day programs
 - 2-3 are state-operated day programs for state-operated waiver individuals

Random Sample Assessments + Heightened Scrutiny

- 95% Statistically Valid Sample
- Approximately 1,100

Assessments Completed: 1/3 completed

- Satellites/Regions Finished or Close to Finished:
 - Albany
 - Springfield
 - Sikeston
 - Poplar Bluff
 - Joplin

Remediation Themes

Informed choice of services and who supports them and documented in the ISP (i.e. choosing home based on the constraints of the budget and with non-disability options)

Understanding of anonymous complaint process (through provider and Department).

The person centered service plan documenting options based on the individual's resources available for room and board.

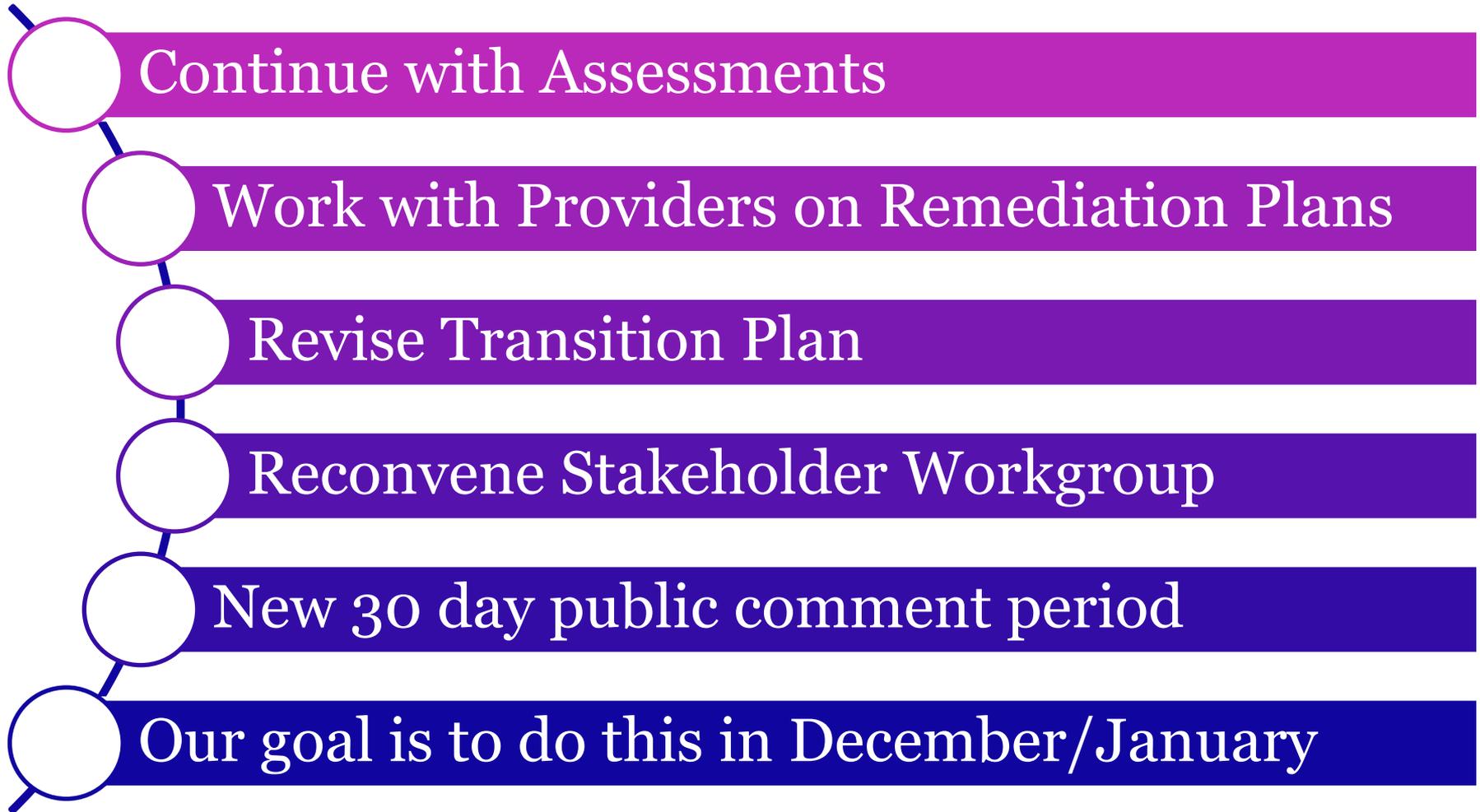
Appropriate documentation for Modifications of Plans (Restrictions).

Restrictions not going to Due Process Committee (formerly Human Rights Committee).

Leases or written agreements with Tenant rights and responsibilities in group homes.

Plans not addressing employment.

Missouri Next Steps





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Thank You