# Home and Community Based Settings Remediation Plans

## Montana Developmental Disabilities Program

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Adapted from NASDDDS Powerpoint 3/14

And

CMS Final Rule Medicaid HCBS Powerpoint

# CMS SAYS THE INTENT OF THIS RULE IS:

* To ensure that individuals receiving long-term services and supports through home and community based service (HCBS) programs under the 1915 (c), 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 setting appropriate

* To enhance the quality of HCBS and provide protections to participants

# CMS Home and Community-Based Settings Requirements

* The home and community-based setting requirements establish an outcome oriented definition that focuses on the nature and quality of the individuals' experiences

* The requirements maximize opportunities for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting

# CMS Home and Community-Based Settings Requirements

- The final rule establishes:
  - Mandatory requirements for the qualities of home and community-based settings including discretion for the Secretary to determine other appropriate qualities
  - Settings that are not home and community-based
  - Settings presumed to not be home and community-based
  - State compliance and transition requirements

# CMS Home and Community-Based Settings Requirements

- The Home and Community-Based Setting:
  - 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 no receiving Medicaid home and community-based services

# CMS Home and Community-Based Settings Requirements

The Home and Community-Based Setting:

- Is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting
  - Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources
- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimizes individual initiative, autonomy, and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

# CMS Home and Community-Based Settings Requirements for 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 or 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

# CMS Home and Community-Based Settings Requirements for Provider-Owned or Controlled Residential Settings

☐ Additional Requirements:

- Each individual has privacy in their sleeping or living unit
- Units have lockable entrance doors, with individual and appropriate staff having keys to doors as needed
- Individuals sharing units have a choice of roommates
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- Individuals have freedom and support to control their schedules and activities and have access to food any time
- Individuals may have visitors at any time
- Setting is physically accessible to the individual

# CMS Home and Community-Based Settings Requirements for Provider-Owned or Controlled Residential Settings

☐ Modifications of the additional requirements must be:

- Supported by specific assessed individual need
- Justified in the person-centered service plan
- Documented in the person-centered service plan
  - 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

# WHAT STANDARDS MIGHT WE USE TO ASSESS SETTINGS THAT "OPTIMIZE" INTEGRATION?
## Robin Cooper, NASDDS 3/14

* **Physical environment allows unplanned interaction with non-disabled peers throughout the day?**
* Physical environment allows occasional unplanned interaction with non-disabled individuals?
* Physical environment offers no opportunity for unplanned interaction with non-disabled individuals; requires planned interaction?

# WHAT DOES INTEGRATION LOOK LIKE?
## Adapted from: Robin Cooper, NASDDS 3/14

* The same planned activities in the home community within all of life's activity domains (examples):
  - Work – with non-disabled individuals
  - Volunteer – work on a political campaign, volunteer at a soup kitchen; volunteer at a shelter
  - Learning experiences and activities – adult learning education
  - Recreations  - having fun, a social life, getting together with friends
  - Shopping – in the community
  - Maintain health and wellness – exercise, gym memberships, diet groups, self-help and support groups
  - Personal Care – barbershop, spa
  - Maintaining Home – cleaning, laundry
  - Spirituality: worship, meditation, yoga classes
  - Hobbies: art classes, fishing

# WHAT DOES INTEGRATION LOOK LIKE?
### Adapted from: Robin Cooper, NASDDS 3/14

☐ The same unplanned interactions (examples):

- run to the store to pick something up,
- borrow something from a neighbor,
- walk to the bus stop,
- shovel snow for the person next door,
- walking the dog around the block and saying "hi" to people
- hanging out at the pizza parlor
- answering the door when a service organization is collecting for a food drive

# WHERE IS DPHHS AT?

- Statewide Transition Plan is currently open for public comment
- Validation visits will be completed by Quality Assurance Division.
- New settings (after March 2014) must be in 100% compliance. Validation will be completed by DDP staff.
- Provider self-assessments completed
  - Remediation letters were sent to 90% and above compliance
  - Remediation plans must be submitted within 45 days of receipt of letter
  - Additional remediation letters are being sent based on provider self-assessment results (80%-90% by end of this week), subsequent non-compliance letter will follow.

# Letters of Remediation

* Specific to a setting that is agency-owned, leased, or operated

* Copies of your provider self-assessment (PSA) can be obtained upon written request (can be email) to Karen Cech

* Letter identifies the area of the PSA which was not in compliance

* Appendix cites the HCBS settings rule

# Considerations

- The settings rule is about the experience a person is having while in the setting.

* If a setting serves only those with intellectual disabilities, how does the agency ensure the setting isn't isolating?

* Unlikely that general rules such as "no visitors after 10" will meet the setting rule requirements.

- Also applies to vocational settings, including work crews and individual employed by the agency to do work.

- Does the person get all services in the setting?  PT, OT, Medical, recreational, mental health/therapeutic?

- If shared bedrooms, what is the process to ensure individuals were given a choice or can ask for a change in roommate?

* How are "House Rules" developed?

- How are health and safety modifications (restrictions) implemented?

* It is the person's experience that counts, how to you ensure the experience isn't isolating?

# Remediation Plans

- We cannot tell you what to put into your agencies remediation plan
- DDP will review remediation plans with a panel
- Considerations when developing remediation plans:
  - Agency policies and procedures
  - Agency staff training requirements
  - Agency personal support planning tools/assessments
  - Agency quality assurance and oversight
  - Agency community outreach activities
  - Agency organizational structure and settings

# Resources

https://dphhs.mt.gov/hcbs

https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

☐ http://leg.mt.gov/bills/mca_toc/70_24_1.htm