

# ALTA CALIFORNIA REGIONAL CENTER CMS Final Rule Training



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# Definition: CMS

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



# Definition: HCBS

“Home and Community Based Services (HCBS)”: Services provided in a person’s home or community rather than institutions or isolated settings. This includes regional center funded care homes, day programs, employment programs, and other independent living situations.

# 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, it must develop an approved State Transition Plan by March 17, 2019, describing how services will transition to be aligned with new federal regulation.

CMS is extending 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.<sup>5</sup>

# 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.



# Questions???



# Discussion Time:

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





# 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.

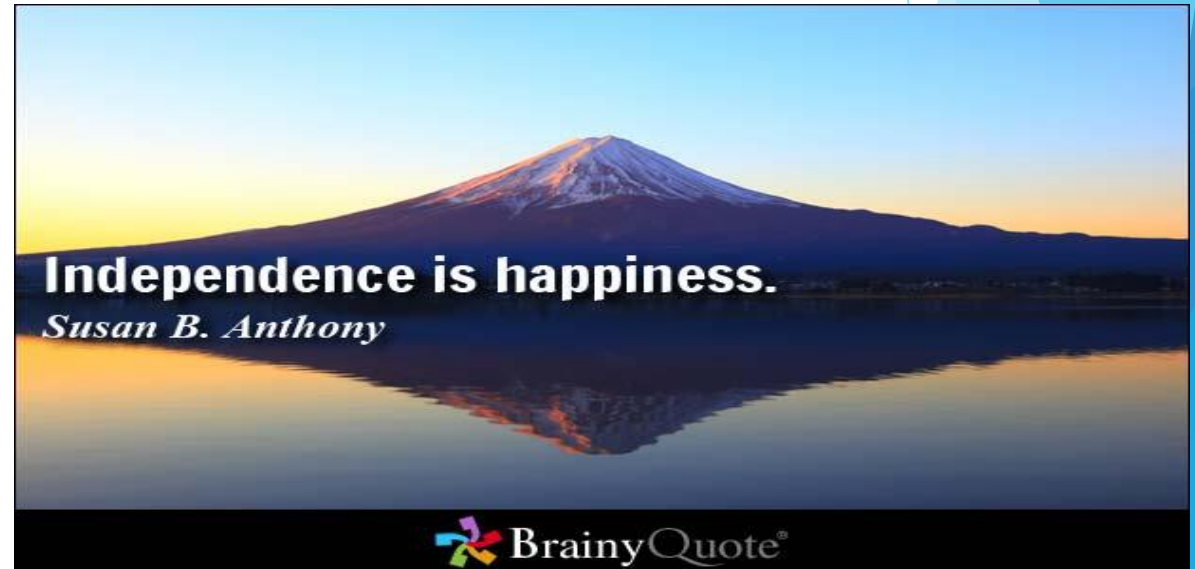


# Questions???



# 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 ACRC vendors will need to make updates to services and/or procedures.



# Why Change?

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

- Work in competitive integrated employment
- Be a part of community life
- Receive services and supports in the community
- Have control over personal resources

# Why Change (continued)?

- Improve quality of and outcomes of services
- Add protections for clients
- Ensure that clients have full access to benefits of community living
- Ensure that services are received in the most natural setting that meets the clients' expressed needs

# 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
- Updating where and how service is delivered
- Develop a more outcome oriented focus

# Offering clients additional choices:



- Receiving services in a more integrated setting
- More opportunities to engage in community life
- 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



# State Transition Plan (STP)

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

California has submitted a draft STP with public comment. It has not yet been approved by CMS.

You can access the proposed STP at this website:


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

In Search field in right hand corner, type in “STP”.


← → http://www.dhcs.ca.gov/Search/Pages/Search.a Search



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STP  

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[Statewide Transition Plan](#)  
[www.dhcs.ca.gov/services/ltc/.../HCBSStatewideTransitionPlan.aspx](http://www.dhcs.ca.gov/services/ltc/.../HCBSStatewideTransitionPlan.aspx)  
Jan 4, 2017 ... The California Department of Health Care Services (DHCS) submitted the revised Statewide Transition Plan (**STP**) to the Centers for Medicare ...

[STP Public Comment Template](#)  
[www.dhcs.ca.gov/services/ltc/.../STP\\_Public\\_Comment\\_Template.doc](http://www.dhcs.ca.gov/services/ltc/.../STP_Public_Comment_Template.doc)

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# How will settings be assessed?

Once California's State Transition Plan (STP) is approved by CMS, the assessment process will begin:



- Provider self-assessment survey
- On-site assessment team (DDS & RC)
- Client / stakeholder input

# Assessment Outcomes:



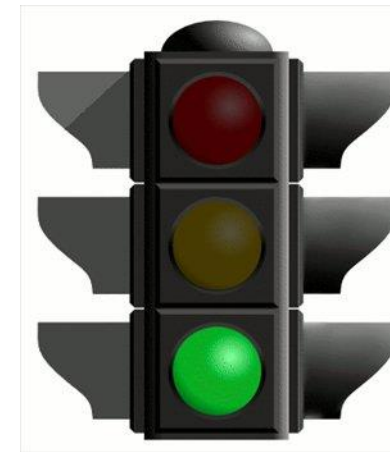
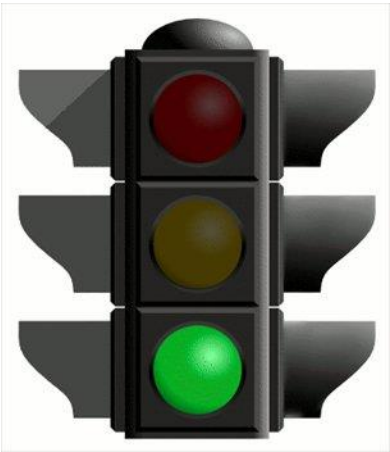
The results of the assessment will indicate if providers are:

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



We do NOT need to wait for an approved State Transition Plan to begin making any changes.

Start now!





# Questions???



Please enjoy a ten  
minute break.

See you soon!



# 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



# 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:

## Institutional Setting

- Keeps people with disabilities segregated from the larger community and 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

# Example:

Settings that are clearly NOT compliant include:

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

# 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 in the community
- Includes opportunities to work in competitive integrated employment, engage in community life, control personal resources, and receive services in the community

# 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

# Example:

Settings that are presumed to be compliant:

- Individualized job coaching for client with competitive employment in an integrated workplace, in the client's career of choice
- Individually owned homes
- Individualized Community Day Activities

# What are “Settings that Isolate”?

- Individuals in the setting are primarily people with disabilities and their staff
- Settings designed just for people with disabilities, or people with a certain type of disability
- Settings designed to provide people with disabilities multiple types of services and activities on-site, that would otherwise be available in the greater community

# What are “Settings that Isolate” (continued)?

- People in the setting have limited, if any, interaction with the broader community
- Settings that use practices used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion or restraint)



# Examples: Settings that Isolate

- Farmsteads
- Gated Community
- Residential Schools
- Clustered Settings



# 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**

# Heightened Scrutiny includes:

- How the setting supports full access into the community
- What strategies are used to overcome institutional characteristics
- Information received during the public input process
- It should NOT focus on the traits of the individuals served, or reasons why institutional characteristics are justified

# “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



# Questions???



# Hurdles to Overcome:

- Being embraced by the community
- Need for more options
- Ratios
- Rates
- Location

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

~Author Unknown

# Tips:

- 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
  - Don't get stuck in planning, processing and waiting for the “right” time for change





# More Tips:

- Use setting for clients to come and go, not to stay
- Give yourself credit by documenting what you are already doing
- 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

# We are still waiting for more information:

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



# Now what?

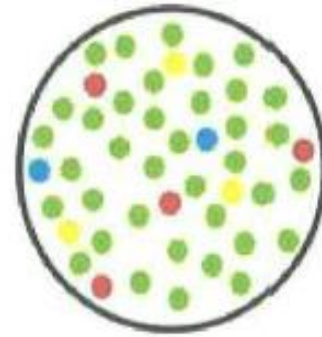
- Think about what changes you can make
  - Now
  - Future
- Person Centered Planning
- Documentation
- Provider Self-Assessment Survey
- Get involved -forums and trainings

# The good news:

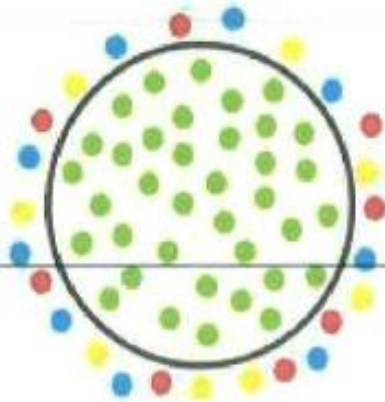
- New possibilities
- Support for clients will be more individualized
- New \$
- What is possible, not just what is available
- Good for our clients, good for our communities



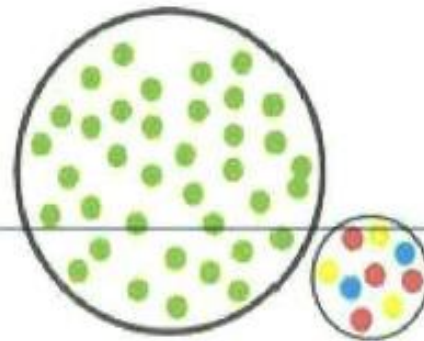
# Inclusion, Exclusion, Segregation, and Integration



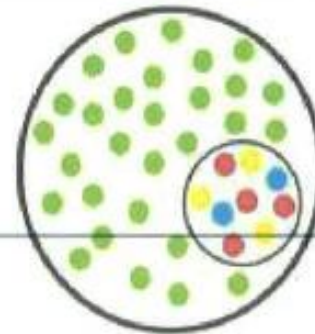
**Inclusion**



**Exclusion**



**Segregation**



**Integration**







# Questions???



# 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



# 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-HCBS-rule-means-for-you.pdf>

# Any further questions:

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