

HCBS FINAL RULE

And State Transition Plan Resource Reference

If you haven't already, please consider joining the Coalition for Community Choice as an individual or request an application to join our network of organization and business leaders. Please email the National Coordinator, Desiree Kameka, at DKameka@MadisonHouseAutism.org

FINAL RULE RELEASED

In January 2014, the Center for Medicaid & Medicare Services (CMS) released the much anticipated Final Rule regarding Home and Community Based Service (HCBS) waivers.

- This **powerpoint** created by federal CMS staff gives an overview of the Final Rule. You can also read the full **Final Rule** in the Federal Registrar.
- The Final Rule was developed to significantly improve the individualized supports and help the support service system become more person centered with fewer conflicts of interest. Characteristics of home and community in the regulations are outcome oriented and based on the waiver recipients quality of life, not on any physical characteristics.
- States have the authority to implement more stringent regulations, therefore it is important to be part of your State Transition process to ensure the state is continuing to represent the HCBS needs and setting choices of their citizens with I/DD.
- This 2-page **HCBS Final Rule Policy Brief** and **FAQ about the Final Rule** can be used to educate others about the HCBS Final Rule.

DEVELOPMENT OF STATE TRANSITION PLANS

Between March 2014 and March 2015, states were tasked to analyze their policies and regulations, identify conflicts of interests within their support service systems, and document a State Transition Plan (STP) to ensure their state's policies and all settings using HCBS funding meet the Final Rule requirements by March 2019.

- The Coalition for Community Choice offered general **information about reading and responding to draft State Transition Plans**. States were required to solicit public comment and revise their draft STP accordingly. These comments were summarized and submitted to CMS along with the revised STP.
- Further guidance was issued by CMS throughout this time period and continues to be released on the **Medicaid HCBS webpage**. It is important to note that this guidance is NOT the federal regulations, but simply guidance that may or may not be used.
- The Coalition for Community Choice developed the following **Guidance for States Leaders Implementing the Final Rule** that advocates can use to develop advocacy initiatives or share directly with state leaders.

Coalition for Community Choice | Winter 2015
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CURRENT PERIOD OF ACTIVE TRANSITION

CMS is reviewing the submitted proposed State Transition Plans and at times requesting more information from states via Clarifications and/or Modifications required for Initial Approval (CMIA). States have until March 2019 to assess and determine eligibility of HCBS settings for continued HCBS funding, conduct public comment periods and gather evidence of eligibility for settings in which heightened scrutiny is deemed necessary, and fully implement their State Transition Plans to comply with the Final Rule by March 2019.

- It is imperative that you read your state's proposed **State Transition Plan** [select State Transition Plan tab] that was submitted to CMS and identify areas of confusion, timelines in which public comment may occur, or if your state has included more stringent regulations than what the federal Final Rule requires.
- Read the state summary of public comments for your state. Make sure your points were reflected in the summary and use the source public comments (if listed) to identify those who may be good partners in advocacy for the future.
- Continue to check for CMS **correspondence between your state and CMS** [select State Transition Plan tab and view CMIA]. The National Health Law Program has created a summary of current additional **correspondence from CMS to specific states** that identifies deadlines of necessary state responses.
- Using the timeline within your state STP as a guide, continue to check with your state regarding public comment periods, a 30 day window where advocates can submit their public comment online or sometimes at in-person gatherings.
- Using the timeline within your state STP as a guide, identify when results of your state assessment of HCBS settings and settings undergoing **heightened scrutiny** will be released. The results are required to go through a 30 day public comment period.

OPPORTUNITIES FOR FURTHER ADVOCACY

Until March 2019, every state may be undergoing multiple public comment periods, potential changes in policies and regulations, as well as shifts in the manner and location of service delivery. It is suggested to request, in writing, to be put on any email listserves that the state may use to send notices of meetings or requests for public comment.

- Continue educating yourself, your organization constituents and other waiver recipients about the STP and now Transition period through March 2019 as their voices should be included in all public comment periods. Feel free to use **Coalition for Community Choice materials**, especially the CCC **Guidance for States Leaders Implementing the Final Rule**.
- Identify if your state has created a Transition Advisory Committee comprised of stakeholders and request to join. If your state does not have one, strongly suggest that they develop one as the voices of waiver recipients, and those that support them, must be included in this process as it will influence their future.
- Review the **Person Centered Plan requirements** (slides 29-40) of the Final Rule and ensure you, or those you support who are waiver recipients, have a documented Person Centered plan that meets all requirements of the Final Rule.
- If you or other waiver recipients live or work in a setting you fear may be stigmatized as isolating or segregating, especially those **settings specifically targeted in CMS guidance**, begin documenting the hours you spend with unpaid friends or volunteers on site, as well as the time you spend within the greater community. Make sure you also document the desired time preferred to be spent in the greater community, as well as barriers to accessing the greater community.
- Use the **CCC Links Portal** to gather state by state statistics and more information for advocating the need of increasing options and decreasing barriers to housing and employment choices.
- Develop relationships with your legislators! Make an appointment to meet with them, or write a letter, that describes your concerns about the State Transition Plan Process, share with them CCC materials, and raise the question of how your state plans to meet the housing and support needs of all of its citizens with I/DD.