

Development of the ODP Home and Community-Based Services Transition Plan – Your Ideas

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Background and Important Dates

- CMS published the final rule amending regulations contained in 42 CFR 441.301 on January 16, 2014
- The rule supports enhanced quality in Home and Community Based Services (HCBS) programs and adds protections for individuals receiving services.
- In addition, this rule reflects CMS' intent to ensure that individuals receiving services and supports through Medicaid's HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting.
- The regulations were effective March 17, 2014

Background and Important Dates

- OLTL submitted amendments to CMS for three of their waivers on June 30, 2014
- The Department of Public Welfare must submit a statewide transition plan to CMS for all ten 1915 (c) waivers by October 28, 2014

▶ Purpose For Meeting Today

- ODP is working on developing the transition plan for the Consolidated, Person/Family Directed Support and Adult Autism Waivers.
- The transition plan will include the steps ODP needs to take to meet the new CMS requirements.
- **We would like your feedback about meeting the new CMS requirements.**



Unallowable Settings

▶ Unallowable Settings


- 42 CFR 441.301(c) (5) - Home and Community-Based Settings do not include a nursing facility, institution for mental diseases, ICF/ID and hospitals.



Settings Presumed Not Eligible

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- 42 CFR 441.301(c) (5) (v) - Settings in a publicly or privately owned-facility that provides inpatient treatment.
- 42 CFR 441.301(c)(5)(v) Settings on the grounds of, or immediately adjacent to, a public institution.
- 42 CFR 441.301(c) (5) (v) - Settings that have the effect of isolating individuals receiving HCBS from the broader community of individuals not receiving HCBS.



All Settings Must Meet the Following Qualifications

▶ All Settings Must Meet the Following


- 42 CFR 441.301(c)(4) - The setting is integrated in and supports full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

▶ All Settings Must Meet the Following

- 42 CFR 441.301(c) (4) - 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. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.

▶ All Settings Must Meet the Following

- 42 CFR 441.301(c) (4) - Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint.
- 42 CFR 441.301(c)(4) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- 42 CFR 441.301(c) (4) Facilitates choice regarding services and who provides them.



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

Requirements for Residential Settings

- 42 CFR §441.301 (c) (4) (vi) – The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

Requirements for Residential Settings

- 42 CFR §441.301 (c) (4) (vi) (B) (1) through (3) – The individual has privacy in their unit, which includes:
 - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
 - Individuals sharing units have a choice of roommates in that setting;
 - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

Requirements for Residential Settings

- 42 CFR §441.301 (c) (4) (vi) (C) – Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.

Requirements for Residential Settings

- 42 CFR §441.301 (c) (4) (vi) (D) – Individuals are able to have visitors of their choosing at any time.

Requirements for Residential Settings

- 42 CFR §441.301 (c) (4) (vi) (E) – The setting is physically accessible to the individual.



Person-Centered Plan



Statewide Transition Plan

Statewide Transition Plan

- Due to CMS October 28, 2014
- Will be released for a 30-day public comment period in mid to late August
 - Public Forums
 - Written Comments



Resources and Wrap Up

Resources

- More information on the CMS HCBS Final Rule can be found at:
 - <http://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://hcbsadvocacy.org/>

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