

# CHANGING VISION INTO ACTION: THE NEW CMS REGULATIONS



## ORGANIZATIONAL CHANGE



CQL | The Council on  
Quality and Leadership

**CATHY FICKER TERRILL**  
CQL | *President and CEO*  
[cfterrill@thecouncil.org](mailto:cfterrill@thecouncil.org)

---

# CHANGE

---

---

# SUCCESS

---

# FACTOR

# WHAT USUALLY HAPPENS

# NORMAL REACTIONS TO CHANGE

---

# RESISTANCE

---

---

# COMMUNICATION GUIDELINES

---

---

# ACTION PLAN

---



## Where is this going?

---

- Enhancement/Expansion of Rights—  
Same as everyone else
- Requirements for demonstrated/evidence-based individualized and person-directed service delivery
- People must be supported to have maximum control over their lives and day-to-day decision making
- Feds are raising the bar; not just CMS, Justice Dept. too, i.e., Olmstead enforcement

## General HCBS Settings Requirements

- The settings is integrated in and supports **full access** to the greater community
- Is **selected** by the individual from among setting options
- Ensures **individual rights** of privacy, dignity and respect and freedom from coercion and restraint
- Optimizes **autonomy and independence** in making life choices
- Facilitates **choice** regarding services and who provides them

## Provider-Owned or Controlled Residential Settings

- 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

- Each individual has **privacy in their sleeping or living unit**
- Units have **lockable entrance doors**, with the 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

## Provider-Owned or Controlled Residential Settings

**The HCBS Settings Requirements clarify, enhance, and expand the rights of ALL people receiving Home and Community Based Services —should be the same as the rights we enjoy as citizens**

**Modifications of the additional requirements (i.e., rights) must be:**

- Supported by specific assessed need
- Justified in the person-centered service plan
- Documented in the person-centered service plan
- And meet the additional specific criteria outlined in the regulations

## Person-Centered Plan

---

### Evidence of **ALL** of the following for a **YES**:

- Plan developed **in conjunction** with the person
- Reflects **his/her** meaningful priorities/goals
- Relates to ISP  
(if ISP not person-centered, there is attempt to rectify by staff with MSC)
- Hab plan reflective of person's current desires
- At least one clear goal that moves the person towards what is most meaningful to him/her
- Informed choice

## Person-Centered Plan

---

- Includes Person's Priorities for Meaningful Activities
- Informed Choice evident
- Positive safeguarding, not risk elimination
- Person First and Plain language
- Person empowered to drive the process, request changes, etc.
- Person satisfied with the process

# Education & Experience

- Provided in a manner that is **meaningful and understandable** to the person
- It is **directly related** to the choice in question



# Empowering & Enabling Individuals' Rights

- Person's right to make decisions is consistently reinforced in daily life:
  - Empowered to say or demonstrate what I think and want
  - Supports respond accordingly
- People are supported in:
  - Big Life Decisions
  - Everyday Life Decisions

## Choice and Control

---

- How to provide informed choice?

### **Exposure – Education - Experience**

- How to respect one's choice after they have weighed up their options?
- The right to risk:

### **What does that mean when applied?**

- How to keep up with people's changing preferences and new discoveries?
- What does a good life look like to each person?

## Full Access To The Community

### Section 4: Person has full access to broader community -- Integration and Community Access

- a. The person is **encouraged and supported** to have **full access** to the community based on their interests/preferences for meaningful activities **to the same degree as others** in the community.
- b. The person **regularly** participates in unscheduled and scheduled community activities in the same manner as individuals not receiving HCBS (CMS Exploratory Question).
- c. The person is **satisfied** with his/her level of access to the broader community and the support provided to pursue meaningful activities for the period of time that he/she desires.

## Full Access To The Community

### Section 4: Person has full access to broader community -- Integration and Community Access

- The person is **encouraged and supported** to have **full access** to the community based on their interests/preferences for meaningful activities **to the same degree as others** in the community.
- The person **regularly** participates in unscheduled and scheduled community activities in the same manner as individuals not receiving HCBS (CMS Exploratory Question).
- The person is **satisfied** with his/her level of access to the broader community and the support provided to pursue meaningful activities for the period of time that he/she desires.

## Full Access To The Community

- Access to **information** about activity options
- Staff facilitates **individualized choice from among array of options**
- Person is connected to **actual “experiences”** of interest to him/her
- Support to engage in what is **meaningful** to the person
- Encouragement/empowerment to **try new things**
- Access **transportation and natural supports/community resources**
- Spontaneous requests for participation **enabled**
- Person is satisfied with **how often they go out and what they do**

## Full Access To The Community

---

- Like people without disabilities, people receiving HCBS **choose where they go and when**
- Can still be integrated in the community if located in a rural area as long as people can travel around and participate in community life **in the same way that other people who live in that community do**

## Full Access To The Community

---

### Does **NOT** mean:

- The **only** time a person is ever in the community is on a “group trip”
- All **activities scheduled by staff** without input from individuals/others re: interests/preferences
- People only frequent community through same **limited set of activities** or with **little variance/options** offered

## Full Access To The Community

### Section 10: “Freedom and Control over Own Schedule and Activities”

- The person is aware that he/she is not required to follow a particular schedule for waking up, going to bed, eating, leisure activities, etc.
- The person is encouraged and supported to make their own scheduling choices according to their preferences and needs
- The person has access to such things as televisions, radio, computer internet, and leisure activities that interest him/her and he/she can schedule and enjoy these activities at his/her convenience
- The person is satisfied with his/her schedule of activities and knows how to request assistance with changes if he/she wants to



## Full Access To The Community

### Section 10: “Freedom and Control over Own Schedule and Activities”

- ‘The setting **optimizes but does not regiment** individual initiative, autonomy, and independence in making life choices’
- People should not have to follow rigid schedules if inconsistent with their preferences and priorities even if they had some opportunity to set their schedule.
- Activities of one’s choosing even if not included in a predetermined menu of options

## Full Access To The Community

### Section 10: “Freedom and Control over Own Schedule and Activities”

- People have the ability and support to make last-minute plans or decisions about how to spend their free time like everyone else
- Persons need for support is not a reason to not have options or to only have his/her choices supported when provider agrees
- Stringent rules/routines for administrative convenience i.e. lack of staffing is no longer acceptable under HCBS Settings requirements

## Relationships

---

- Person is encouraged and supported to foster and/or maintain relationships that are important and meaningful to him/her.
- Person regularly interacts with people who are important to him/her (who are not paid to spend time with him/her) and is satisfied with the type/frequency of interactions
- The Person is able (i.e., allowed) to have visitors of his/her choosing at any time

## Relationships

---

### Key Interpretation Criteria:

- Ongoing and consistent support to foster and maintain relationships
- Evidence that the person regularly interacts with people who are important to him/her
- The person is satisfied with number/type of relationships and frequency of interaction
- Visitors

## Choice of Living Arrangement/Roommate

- Person is satisfied—he/she does not express a desire to move or have another roommate
- If person is dissatisfied, provider staff is assisting/supporting the person to resolve issues and/or to seek out other alternatives

**There must be evidence of proactivity**

## Access To Food At Any Time

---

- “A person should not be presented with narrow meal and snack options, decided by someone else, without input from the person.” (79 Fed Reg. 2965-66)
- Food options should not be unreasonably limited
- ‘Requirement would not be satisfied by choice between a granola bar or pitcher of water and crackers’

## Requirements If Rights Modification Is Necessary

### **ALL Requirements Must Be Met For A YES:**

- ID of specific assessed need
- Documentation of positive interventions and supports used prior to modification
- Documentation of less intrusive methods tried
- Clear description of condition in direct proportion to the assessed need
- Inclusion of regular collection/review of data to measure effectiveness of modification
- Established timeframes for periodic review
- Informed Consent of the person
- Assurance that interventions/supports will cause no harm to the person

## Become a Learning Organization

---

- Learning organizations take risks
- Learning organizations partner with individuals who will challenge them
- For every person considered “too disabled” to work, someone somewhere has figured it out for a person with similar needs



## Become a Learning Organization

- Every improvement in services for people with severe disabilities has been a movement away from institutions and segregation and toward community and inclusion
- Learning organizations need leadership to move toward building social ties

## What Learning Organizations Do

- Relentlessly upgrade their team
- Use every encounter as an opportunity to evaluate, coach and build self-confidence
- Make sure people not only see the vision ...

**They live it**

**They breathe it**

**They own it**

## What Learning Organizations Do

---

- Inspire risk taking
- Encourage learning by setting the example
- Celebrate success
- Establish trust with candor

## What Learning Organizations Do

---

- Laugh
- Positive energy and optimism
- Have courage to make unpopular decisions and gut calls
- Probe and push with a curiosity that borders on skepticism
- Make sure questions are answered with action

### Innovation is as American as Apple Pie.

- New products every 30 minutes

**YET, we still have so much technology untouched**

- Global World

**YET, we can't convert sheltered workshops  
to models for building social capital**

- Computers can Drive Cars

**Yet, we are afraid to tear down  
brick & mortar to get to outcomes**

### Cultural Guidelines for Changing the Way You Handle Change

- Stop the history
- Do what works
- Don't wait for instruction
- Take initiative
- Don't play it safe
- Take more risks
- Try not to break things
- Welcome change

### Rethink Our Policy

- Control
- Choice
- Dignity
- Rights
- Personal Goals
- Self- Advocates as Policy Makers

### Off To See The Wizard

- Friends
- Mutual Respect
- Interdependence
- Courage
- Informed Choices
- Freedom to go HOME





OCT 20-21  
St. Louis, MO



[www.c-q-l.org/Conference](http://www.c-q-l.org/Conference)



**OUTCOMES:**

The Gateway To Quality

**CQL**<sup>SM</sup>

CQL | The Council on  
Quality and Leadership

**2015**  
**CONFERENCE**



CQL | The Council on  
Quality and Leadership

CQL is dedicated to the definition, measurement and improvement of personal quality of life for people receiving human services and supports.

**CATHY FICKER TERRILL**  
CQL | *President and CEO*

[cfterrill@thecouncil.org](mailto:cfterrill@thecouncil.org)

---

[www.c-q-l.org](http://www.c-q-l.org)