

CHANGING VISION INTO ACTION: THE NEW CMS REGULATIONS



ORGANIZATIONAL CHANGE



CQL | The Council on
Quality and Leadership

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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.

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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



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

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