HCBS Transition Plan – Final Setting Rule

Question and Answers

June 5, 2015

1. **What is the deadline for completing the Provider Self-Assessment Tool?**

   A: Providers must complete the Provider Self-Assessment Tool by June 30, 2015.

2. **What happens if a provider does not complete the Provider Self-Assessment Tool prior to the deadline?**

   A: Providers that do not complete the Provider Self-Assessment Tool will be identified as part of the first phase of onsite reviews and assessments to determine compliance with the HCBS Final Settings Rule.

3. **What type of providers have to complete this survey? Is it only for provider owned, controlled or operated services?**

   A: All providers who provide HCBS should complete this survey regardless of whether they own, operate or control the setting. For example, residential or day services provided in a person's home or in a setting that they do not own, operate or control should complete the survey based on the types of settings where they provide services (for example, a person's own home).

4. **If a provider identifies that one or more settings may be non-compliant or substantially non-compliant, does that mean that the provider can no longer provider HCBS in those settings?**

   A: This Provider Self-Assessment Survey is a tool to where the provider feels they are in terms of compliance with the HCBS Final Rule at this time. Additional assessments and remediation opportunities will be available for settings which may not fully comply at this current date.

5. **Can providers review the entire survey prior to starting or submitting the survey to ensure you have all the information that you will need to complete it?**

   A: Yes. Providers can click through the survey before submitting the form.

6. **What defines a setting? What defines a setting location?**

   A: For purposes of this survey, a setting refers to a location where individuals receive home and community based services such as the person's home, integrated employment, facility-based employment, adult day care and day supports, residential supports, assisted living facilities, and adult care homes.

7. **When the survey requires providers to submit a different survey for each group home, day site or setting type, does that mean that all residential setting types should be submitted as "residential"?**

A: Many providers have multiple locations. For example, an IDD residential provider may have Shared Living, Supported Living, and Traditional Group Home settings. These settings operate slightly differently and may have a different level of compliance. For the most accurate survey results, the provider should submit a survey for each of those settings and identify them as residential supports. The addresses for the Shared Living settings can all be submitted together, the same as the settings for Supported Living (where individuals live independently and the provider goes into their home), and Traditional Group Homes.

8. **For day services, is it a controlled site if the agency has a contract with a community to operate the recycling center, but the agency does not own premises and just "operates" with HCBS consumers on the work crew? For residential services, would it be an agency-controlled setting if a family owns a home and rents rooms to HCBS participants who all receive HCBS residential supports from an agency?**

   A: Yes. It would be a provider controlled setting if the provider controls the services, supports and when they are provided even if they are provided in a location that is not owned or operated by the provider. The provider should answer the questions provided to the best of their ability.

9. Under the section related to criteria for having the effect of isolating individuals, what is the intended distinction between "on-site staff provide many services" and "settings are designed to provide multiple types of services and activities on-site" in comparing these two statements:
   - *The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provide many services to them*
   - *Settings are designed to provide disabled individuals with multiple types of services and activities on-site, including housing, day services, medical, behavioral/therapeutic services, or social and recreational activities*

   A: When reviewing the two settings the first setting refers to settings where the only participants are people with disabilities and the staff work for the provider of the setting, like a traditional day setting. The second statement refers to settings that are broadly defined for many types of services in which providers may come in to the location or other community providers may provide activities or services to the individual.

10. **How does the provider address the questions of "visitors at any time" or related questions where cooperation with roommates and other limitations may apply?**

    A: Providers should look at the practices of the setting and determine if the setting allows the participants to have visitors as they choose or is there a provider established "visiting hours" or locations or other limitations that are not chosen by the participant.

11. **For residential settings where the provider owns the home and only allows residence if the person is receiving services from that provider, how does the landlord/tenant requirements apply?**

    A: To be considered a home and community based setting, the provider must afford the consumers with rights to the same degree as the landlord/tenant laws the state or local jurisdiction. Compliant settings must provide an enforceable lease that provides protections and process comparable to the landlord tenant law. We encourage providers to review the landlord tenant laws for your area and assess your compliance accordingly.

12. **How does the provider respond to the questions related to community integration, interaction with the broader community, and isolation from persons who are not receiving Medicaid HCBS?**

    A: Providers should answer the questions based on the types of settings identified in the survey and look at the characteristics of the setting not the individual limitations to determine if the setting met the requirements for HCBS Final Rule. When answering questions related to isolation and definitions for HCBS, please answer it based on the setting characteristics and an answer of "not applicable to this setting" would only not apply if the setting does NOT have the characteristics identified in the question. If a person chooses not to participate in the least restrictive options available, this choice should be documented by the provider with evidence of the choices provided and how the person was given an opportunity to explore or experience the options available before making a final decision.

13. **When submitting addresses for the Provider Self-Assessment, what if the addresses are multi-unit complexes with different apartment numbers or street addresses on the same block?**

    A: Providers should enter all addresses related to the setting type they are completing the survey for. If there are multiple units in the same building and the provider owns and controls all of the units, only one address is needed. Additional addresses can be entered in the large dialogue box directly following the three address boxes. Addresses in this box should be separated by a semi-colon to allow the system to distinguish the separate addresses.

14. **Why is the state requesting information about the number of individuals served in a setting regardless of funding type when there is a subsequent question about how many individuals who receiving HCBS are served in the setting?**

    A. CMS requires states to provide this information for each setting type.

15. **Does organization capacity mean the capacity of the setting?**

    This question is looking to identify the total number of people served by the provider organization.

16. **How does a provider answer the question related to the fewest or highest number served in this setting type? How does a day location answer the question if there is only one setting?**

    The fewest and highest number of persons served should be the fewest or highest number of person's served in an individual setting location for which you are completing the survey. For example, if the provider has 10 Day locations and one serves 2 and the largest serves 15, the answer to the questions would be this:

    - Fewest # of individuals served in this setting type = 2
    - Highest # of individuals served in this setting type = 15

    If there is only one setting, please answer the questions with the fewest and highest number being the same. You do not have to answer the question by reviewing a "period of time."

17. **If "not applicable" is not an available option, can a provider leave a question blank that the provider does not believe applies?**

    A. Providers should answer all questions and select the answer the best applies to the setting. Questions that are left blank will be reviewed and may require follow up with the provider.

18. Where can providers add explanations that describe the answers to questions they believe have significant gray area?

A. The assessment questions were taken directly from the CMS regulation and accompanying guidance. If a question poses complication you may check the partial compliance category and provide clarification on your answer in the accompanying dialogue box. The purpose of this survey is to allow providers to review their own services and supports and make a general determination of whether their current practices comply with the HCBS Final Setting Rule and identify areas of the setting which will need modification to comply with the rule. Additional comments regarding gray areas, or situations which did not fully fit into the answers available should be noted in the final dialogue box asking for your assessment of your settings compliance.

19. What happens after the Provider Self-Assessment is completed? What will the State do with the results?

A: KDADS will work with WSU to compile the responses and identify the number of individuals served in provider owned, controlled and operated settings and how many of those individuals are receiving HCBS. KDADS will review compliance results and hold public comment sessions on the compliance review process and timelines for the remainder of the year in July 2015. WSU will be facilitating a stakeholder workgroup that will assist in designing the onsite assessment tool and compliance and remediation process. Potential workgroup members will represent the different settings and participants and will be composed of members who are not already serving on other workgroups related to HCBS Programs. Please follow the KDADS website (www.kdads.ks.gov) and look for updates in the HCBS Bulletin and through the HCBS ListServ.

20. Where can providers get additional information about the HCBS Final Rule and updates on the HCBS Transition Plan?

A. To review detailed information regarding the HCBS Final Rule and Kansas HCBS Transition Plan, please visit the following websites:

Medicaid.Gov

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

Kansas Transition Plan

http://kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-waivers