

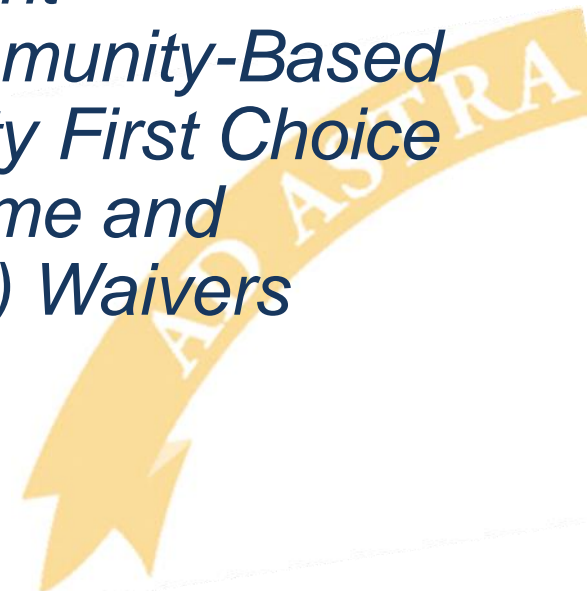


Final HCBS Settings Rule

Susan Fout, HCBS Director
June 10, 2016

Final Rule

- Published in the Federal Register on January 16, 2014 and became effective January 16, 2014
- *Medicaid Program; State Plan Home and Community-Based Services (1915(i), 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice (Section 1915(k) of the Act) and Home and Community-Based Services (HCBS) Waivers (Section 1915(c) of the Act)*



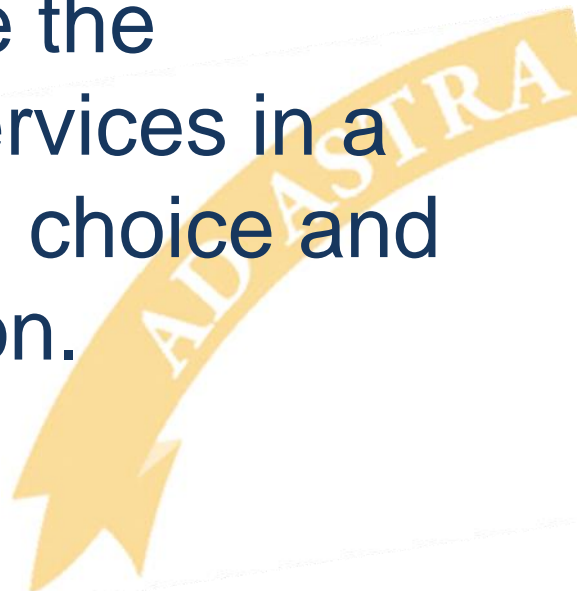
Background

- The final rule established requirements for the qualities of settings that are eligible for reimbursement for the Medicaid Home and Community Based Services provided under 1915(c), 1915 (i) and 1915(k).
- CMS is moving away from defining HCBS settings by what they are not and toward defining them by the **nature and quality of individuals' experience**.
- To enhance the quality of HCBS and provide additional protections, and to ensure full access to the benefits of community.



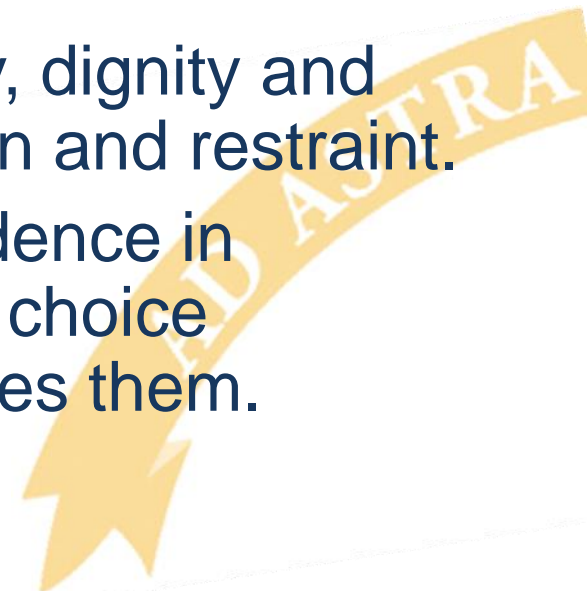
Requirements

- Focus on the quality of the individuals' experiences
- The intent is that individuals receiving Medicaid funded services have the opportunity to receive these services in a manner that protects individual choice and promotes community integration.



Requirements

- Any residential or non-residential setting where individuals live and/or receive HCBS must have the following qualities:
 - The setting is integrated in and supports full access to the greater community.
 - Is selected by the individual
 - Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint.
 - Optimizes autonomy and independence in making life choices; and facilitates choice regarding services and who provides them.



Provider Owned or Controlled

- The individual controls his/her own schedule including access to food anytime;
- The individual can have visitors at any time;
- The setting is physically accessible
- Any modifications to these additional requirements for provider-owned HCBS settings **must be supported by a specific assessed need and justified in the person-centered service plan.**



Kansas Transition Plan

- The plan was submitted but has not been accepted by CMS.
- Kansas will be submitting an amended transition plan.
- The transition plan spoke to surveys sent to HCBS providers.
- Surveys 1 and 2
- On site reviews to be completed by July 31.



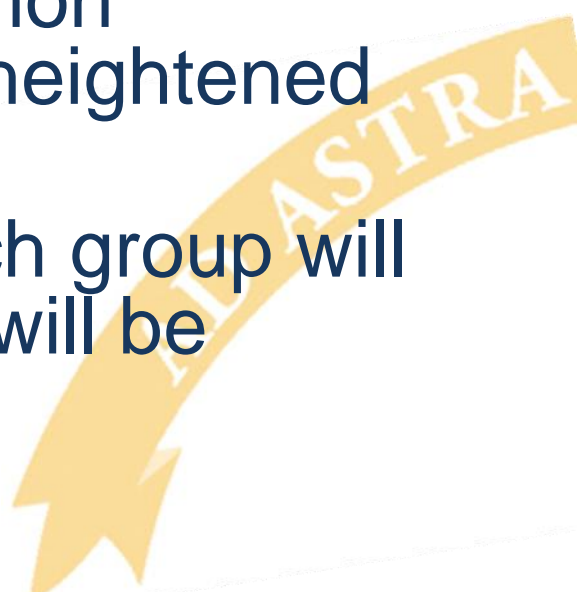
Where we are

- Review of the regulations against the rule regulations
- List of providers who have billed for HCBS services.
- List of adult care homes providing HCBS services.
- Added into the quality review process for HCBS services; the person centered planning requirements and other requirements to monitor and assure compliance.



Where we are

- Two surveys have been completed.
- Completing results.
- A consumer/family survey to be completed.
- Once those are ready the state will determine via survey results providers noting; compliance, partial compliance, non compliance or those requesting heightened scrutiny.
- Depending on the number in each group will determine how the on-site visits will be completed.



What's next?

- Determine where on-site visits will be completed.
- On-site visits to be completed by July 31, 2016.
- Notification to providers of their compliance or non-compliance status.
- Meet with providers to determine a timeline for them to come into compliance.



What's next?

- The state will request timeline for compliance from providers.
- The state will monitor for compliance.
- The transition plan will incorporate the timelines for compliance as well as any provider who will not meet compliance
- A plan for those settings not able to meet compliance must have a transition plan to relocate individuals.



Heightened Scrutiny

- The state can present evidence to CMS demonstrating the setting does not have the qualities of an institution and that it does have qualities of a HCBS setting
- CMS reviews evidence submitted by the state and makes a determination as to whether the evidence is sufficient to overcome the presumption that the setting has the qualities of an institution.

Monitoring

- The state is responsible to monitor for remedial actions.
- Once remedial actions have been achieved setting compliance, the state must continue to engage in monitoring and oversight activities to ensure ongoing compliance.

Monitoring

- The state must monitor for each milestone in the plan for state-level actions to assure the milestone is being met.
 - If a milestone is not being met, take steps to address
 - If a milestone is delayed the state notifies CMS.



Concerns

- Attached ALF, RHCF, HP and Adult Day Care
- Adult Day Care in a NF/or other facility.
- Special Care Units or facilities.
- Lease, residency agreement or other form of written agreement.
- Appeal process
- Person Centered Planning
- Special care units.



Day Programs

Regularly scheduled activities in a non-residential setting separate from the participant's residence or other residential living arrangements.

- Includes assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living.
- Focus on enabling the participant to attain or maintain his/her maximum potential.



Comments, Ideas, Concerns

- Kansas needs your help for our transition plan and to assure we meet the intent of the rule.



Questions for You

- How do you think the Final Rule will affect you/your providers?



Questions for You

- What are the most significant changes you/providers will have to make?



Questions for You

- What do you see as the timeline for making necessary changes?



Onsite Assessments

- Process overview
- [Assessment Tool](#)



Onsite Assessment Process

- What questions do you have?
- What are your initial thoughts?
- What do you like about the proposed process?
- What concerns you about the process?



Comments and Information

- KDADS website: www.kdads.ks.gov
- Comments can be sent to: HCBS-KS@kdads.ks.gov

